



Brett Johnson

Partner

Dallas

+1 214-453-6416

A gifted storyteller, Brett excels at handling high-risk, complex matters for his clients. His practice emphasizes all aspects of complex commercial and intellectual property litigation, including patent, trademark, trade secret, and unfair competition.

Brett is head of the Litigation Practice for the Dallas office and focuses his trial practice on complex commercial litigation and intellectual property matters across several industries, including high-tech, banking, and pharmaceutical. Clients trust his practical approach to litigation and value Brett's ability to learn his client's business, as well as its case and direct a litigation strategy that is consistent with the client's overall business objectives.

An East-Texas native, Brett excels at taking complex technical and business issues and making them relatable to a jury or judge. Leveraging his trial experience, one of his strengths is helping develop the narratives and trial themes that allow the client's case to be told as a credible and compelling story through the witnesses and other evidence. It is his ability to effectively communicate through each phase of a trial—from openings, through directs and cross-examination—that makes him a go-to lawyer for his client's most challenging matters.

Brett is experienced in litigation matters before Federal District Courts, the Court of Appeals for the Fifth Circuit, Delaware District Courts, and Texas state trial and appellate courts, including the Texas Supreme Court, and arbitration matters before the American Arbitration Association. He has been lead counsel for multiple joint defense groups in IP and non-IP related litigation and represented Fortune 100 firms, as well as small family-owned

companies. Brett has tried more than 30 cases in federal and state courts and defended numerous clients in commercial class actions. He has obtained favorable litigation/arbitration results for clients including Mark Cuban, the Dallas Mavericks, Alixa RX and Sabre, Inc.

Brett has prior experience serving as a law clerk to the Honorable Paul Brown at the U.S. District Court for the Eastern District of Texas and is married to U.S. Magistrate Judge Kimberly Priest-Johnson of the U.S. District Court for the Eastern District of Texas.

Key Matters

Some of the experience represented below may have been handled at a previous firm.

Intellectual Property/Trade Secrets

- Representing major auto manufacturer in patent litigation involving VOIP technologies (E.D. Tex. 2022)
- *Ericsson, et al. v. Apple*. (E.D. Tex. 2022)—Representing Ericsson in a SEP and implementation patent suit against Apple related to wireless communications technology.
- Defending Austin-based private equity portfolio company in patent litigation concerning network security (W.D. Tex. 2021)
- *Hardin v. LG* (E.D. Tex. 2021)—Representing plaintiff inventors in patent suit against LG involving geofencing technologies
- *Hardin v. Samsung* (E.D. Tex. 2021)—Representing plaintiff inventors in patent suit involving geofencing technologies
- Representing VMware in multi-patent series of cases (W.D. Tex. 2021)
- *Ericsson, et al. v. Samsung, et al.* (E.D. Tex. 2021)—Representing Ericsson in a SEP and implementation patent suit against Samsung related to wireless communications technology.
- Defending a major financial institution in a series of check-processing patent litigations brought by USAA (E.D. Tex. 2019 and 2020)
- *Captivate LLC v. Waitt Consulting LLC, et al.* (D. Neb. 2018)—Representing Captivate LLC in a patent infringement suit against Waitt Consulting.
- *Ericsson, et al. v. LG, et al.* (E.D. Tex. 2018)—Representing Ericsson in a FRAND patent suit against LG related to licensing LG's patent portfolio of 2G, 3G, and 4G LTE wireless technology.
- Defending a major financial institution against a patent infringement suit in the Northern District of Texas.
- *Tech Pharmacy Services v. Alixa Rx, et al.* (E.D. Tex. 2017)—Represented Fillmore Capital Partners, LLC, Fillmore Strategic Investors, LLC, Fillmore Strategic Management, LLC, Golden Gate National Senior Care, LLC and AlixaRx, LLC in a trade secret and patent litigation matter brought by Tech Pharmacy Services. Following a month-long trial, a jury rendered its verdict in less than a day, finding against the plaintiff on its claims for trade secret misappropriation, fraud, and patent infringement of four patents.
- *T-Rex Property AB v. National CineMedia, LLC and T-Rex Property AB v. Carmike Cinemas, Inc.* (E. D. Tex. 2016–Present)—Defended National CineMedia in a patent infringement suit involving multiple patents for controlling and coordinating electronic displays.
- *Kingspan Insulated Panels, Inc. v. Centria, Inc., et al.* (E.D. Mich. 2015–Present)—Defending Centria and its affiliated entities against patent infringement and tortious interference allegations related to wall systems for a large-scale construction project.

- *Kaavo Inc. v. Tier 3 et al.* (D. Del. 2014)—Defended Tier 3, Savvis Communications Corporation, and Appfog Inc., three subsidiaries of CenturyLink, in two patent infringement suits involving two different patents related to cloud computing. Argued the joint defense in a hearing with Amazon.com. Both cases on behalf of Tier 3, Savvis Communications Corporation, and Appfog, Inc. were successfully settled.
- *Tekelec v. Performance Technologies, Inc.* (E.D. N.C. 2011)—Defended Performance Technologies in six-patent case involving SS7 and other signaling technologies.
- *Touchcom Technologies Inc v. Dresser, Inc.* (E.D. Tex. 2005)—Obtained summary judgment of invalidity for Dresser in patent infringement suit alleging infringement across all primary products sold in the United States with damages alleged to exceed US\$30 million. Case subsequently favorably resolved in lieu of appeal.
- *American Building Control Inc. v. Robotics Technologies Inc.* (N.D. Tex. 2003)—Represented Robotics Technologies Inc. in a patent infringement case.
- *Nokia, Inc. v. Buca* (N.D. Tex. 2002)—Obtained favorable settlement for Nokia, Inc. in a patent infringement case.
- *Alcatel USA, Inc v. Tekelec, Inc.* (E.D. Tex. 2001)—Obtained a favorable settlement for Alcatel USA, Inc. in a patent infringement case involving telecommunications technology.
- *Lucent Technologies, Inc. v. Power One, Inc., et al.* (Travis Co. Tex. 2001)—Obtained a favorable settlement for Power One, Inc. in a trade secret misappropriations case.
- *Chorum Technologies, Inc. v. Oplink Communications, Inc.* (N.D. Tex. 2001)—Obtained a favorable settlement for Oplink Communications, Inc. in a patent infringement case involving fiber optic technology.

Complex Commercial Litigation

- Automotive Product Liability Suit (2022)—Representing a global automotive manufacturer in a product liability suit pending in the Eastern District of Texas.
- *S. ex rel Hernandez v. Team Health LLC et al* (E.D. Tex. 2020–21)—Defended one of the largest emergency room staffing companies in the US in defending claims under the federal False Claims Act
- *Perry, et al. v. Excentus Corp., et al.* (Dallas Co. Tex. 2017)—Defended Excentus from a hostile takeover of its Board of Directors by obtaining an injunction preventing the expansion of the Board of Directors. Decision affirmed by the Texas Court of Appeals.
- *S. et al v. Ocwen Loan Servicing LLC* (E.D. Tex. 2016)—Represented relators and obtained a successful settlement in a US\$100 million-plus False Claims Act case.
- *Hillwood Center Partners, L.P. v. Radical Cuban LLC, et al.* (Dallas Co. Tex.; American Arbitration Association 2010) —Obtained an award in favor of Mark Cuban and Dallas Mavericks entities, including an award of fees in their favor on claims brought by Hillwood Center Partners, L.P./Ross Perot, Jr. regarding the alleged breach of contract and breach of fiduciary duty in the alleged wrongful diversion of certain profits of American Airlines Center to the Dallas Mavericks basketball operations.
- *Terry S. Casey, et al v. Harold C. Simmons, et al.* (Dallas Co. Tex.; American Arbitration Association 2010)—Obtained plaintiffs’ jury verdict in excess of US\$100 million and a favorable post-trial settlement for clients, Marcus Martin and Highland Environmental Management, LLC, in a case regarding claims of breach of fiduciary duty, fraud, conspiracy, aiding and abetting, negligent misrepresentation, gross negligence, negligence, and tortious interference.
- *American Airlines, Inc. v. Sabre Inc.* (American Arbitration Association 2010)—Defended Sabre Inc., in a US\$30 million claim. Obtained an award in favor of client, Sabre Inc., in a case brought by American Airlines regarding the alleged breach of contract and various business torts surrounding transfer of data processing charges for certain software functionality.
- *Amalgamated Gadget, L.P. and NYC 999, L.L.C. v. Cornelius Mack and John Bianchi* (N.D. Tex. 2003)—Represented Amalgamated Gadget, L.P. and NYC 999, L.L.C. in securities fraud action involving laundering of securities to avoid insider trading rules.

- *North Dallas Enviroscope, Inc v. Rainforest Creations, Inc., et al.* (E.D. Tex. 2002)—Represented North Dallas Enviroscope, Inc. As co-lead trial counsel, obtained US\$4.7 million verdict in client’s favor in false advertising and misappropriation of business method case.
- *Universal Image, Inc. v. Cuban, et al.* (Dallas Co. Tex. 2000)—Represented Yahoo!, Inc. and Broadcast.com, Inc. in a commercial dispute regarding internet content provider.
- *Schiller and Gregory v. Yahoo!, Inc., et al. and Stewart v. Yahoo!, Inc., et al.*(E.D. Tex. 2000 and Dallas Co. Tex. 2000)—Representing Yahoo!, Inc. and Broadcast.com, Inc. in an internet privacy class actions.

Recent Experience

Winston Secures Favorable Settlement for Virtualization Company in 10-Patent Case

Recognitions

- Recognized as a “Key Lawyer” in *The Legal 500 US* for Rail and Road – Litigation and Regulation in 2023
 - Recognized in the 2023 and 2024 editions of *The Lawdragon 500 Leading Litigators in America* for commercial and IP litigation
 - Recognized by *IAM Patent 1000*, 2022-2023
 - Recognized in *The Legal 500 US* for patent litigation in 2018
 - Named an “Up and Coming” intellectual property attorney by *Chambers USA* in 2011
 - Listed in the 2009 Corporate Counsel Edition of *Super Lawyers* for business litigation
 - Named by his peers as a “Texas Super Lawyer” in 2004–2006 and 2009–Present
 - Named as a “Texas Rising Star” in 2004
 - Voted as one of “The Best Lawyers Under 40 in Dallas” in the May 2002 issue of *D Magazine*
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Activities

- Member, Texas Bar College
 - Adjunct Professor, Southern Methodist University Dedman School of Law, teaching courses on pre-trial and trial advocacy
 - Guest Faculty at Notre Dame Law School, teaching courses on trial advocacy in the Fall semester
 - Founding Master in Paul Brown Inn of Court
 - Founding Master in Barbara M.G. Lynn (Intellectual Property) Inn of Court
 - Dallas Bar Association
 - State Bar of Texas
 - Dallas Association of Young Lawyers
 - Member, Patrick E. Higginbotham Inn of Court
 - National Institute of Trial Advocacy
 - Board of Directors for the Dallas Summer Musicals
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“ [Brett] handles the most complex and high stakes disputes with a deft touch and knows how to connect with a jury to pull in a verdict in his favour. ”

IAM Patent 1000

Credentials

EDUCATION

Brett received his B.B.A. from Baylor University in 1991 and his J.D., *cum laude*, from the Southern Methodist University Dedman School of Law in 1994, where he was managing staff editor for the *SMU Law Review* and a member of Order of the Coif and Order of Barristers.

ADMISSIONS

- Texas

CLERKSHIPS

- USDC - Eastern District of TX for the Honorable Paul Brown

Related Insights & News

PRO BONO IN ACTION

Winston and Toyota Team Up to Support Veterans in Dallas

NOVEMBER 15, 2023

SPONSORSHIP

Winston & Strawn Sponsors 2023 Eastern District of Texas Bench Bar Conference

OCTOBER 25, 2023

RECOGNITIONS

Winston & Strawn Partners Recognized in 2024 *Lawdragon* 500 Leading Litigators in America

SEPTEMBER 8, 2023

RECOGNITIONS

Winston Attorneys Recognized in *The Best Lawyers in America*® 2024

AUGUST 17, 2023

RECOGNITIONS

Winston Recognized in 2023 *IAM Patent 1000* Rankings

JUNE 26, 2023

RECOGNITIONS

Winston & Strawn Recognized in *The Legal 500 U.S.* 2023

JUNE 7, 2023

NEWS

2022 Pro Bono Impact Report

MAY 1, 2023

BLOG

Judge Albright Begins Issuing Standard Order on Motions in Limine Similar To Judge Gilstrap's December 2022 Standing Order

APRIL 28, 2023

NEWS

Winston Proves "Natural Cure" Patent Is Invalid at PTAB

APRIL 27, 2023

CLIENT SUCCESS

Winston Defeats Kerry Group in IPR Involving a Patent for a Natural Meat-Cure Process, Preserving FFP's Strategic Market Share

APRIL 1, 2023

SPEAKING ENGAGEMENT

Winston Sponsors 2022 Eastern District of Texas Bench Bar Conference

OCT. 26-28, 2022

RECOGNITIONS

Winston & Strawn Partners Recognized in 2023 *Lawdragon* 500 Leading Litigators in America

OCTOBER 5, 2022

Capabilities

Litigation/Trials

Product Liability & Mass Torts

Patent Litigation

Antitrust/Competition

Trademark Litigation, Prosecution & Brand Protection

Trade Secrets, Non Competes & Restrictive Covenants

Class Actions & Group Litigation

Commercial Litigation & Disputes

Government Program Fraud, False Claims Act & Qui Tam Litigation

Intellectual Property

Technology Antitrust

Sports