



Brian Nisbet

Partner

Chicago
+1 312-558-3254

Recognized as a “Rising Star,” Brian has tried cases involving patent infringement, trade secret misappropriation, business torts, unfair competition, and breach of contract, in state and federal courts across the country. In addition to his trial practice, Brian has worked pro bono on behalf of the wrongfully convicted and other criminal defendants.

Brian has achieved notable success at trial in complex commercial litigation and cases involving intellectual property. In addition to several bench trial victories for clients in Hatch-Waxman cases, he obtained two record-breaking jury verdicts resulting in his clients being awarded damages exceeding US\$94M and US\$30M. Most recently, Brian defeated a US\$48M damages claim before a jury in California state court in a case involving business torts and unfair competition.

Brian has represented companies in high stakes trade secret and patent litigation, including companies in the pharmaceutical, cable, telecommunications, software, recreational, and medical device industries.

In addition to his intellectual property practice, Brian has extensive experience litigating complex commercial issues, ranging from securities law violations, product liability, consumer fraud, breach of contract, business torts, unfair competition, breach of fiduciary duty, negligence, and wrongful death.

Brian has been recognized as a “Rising Star” in Intellectual Property Litigation in 2013 and 2015–2019 by *Super Lawyers* and published in *Chicago Magazine*.

Key Matters

TRIAL EXPERIENCE

- Successfully defended client in jury trial seeking US\$48M in damages for alleged tortious interference of contract and unfair competition.
- Successfully defended client in jury trial seeking \$30M in damages for alleged patent infringement concerning spine medical devices.
- Successfully defended client in jury trial seeking \$50M in damages for alleged patent infringement concerning fracking technology.
- Successfully represented software company in jury trial in trade secret misappropriation case that resulted in favorable verdict of \$104M in damages (damages reduced on post-trial motion, under appeal).
- Successfully defended client in jury trial seeking US\$41M in damages for alleged patent infringement concerning generic versions of the drug Suboxone® and Subutex®.
- Successfully represented drug company in jury trial in breach of contract case that resulted in a favorable, record-breaking verdict of US\$94M in damages.
- Successfully represented artificial turf company in jury trial in patent infringement case against main competitor that resulted in a favorable, record-breaking verdict of US\$30M in damages.
- Successfully represented drug company in significant bench trial victory for alleged patent infringement related to generic version of the drug product NuvaRing®.
- Successfully represented drug company in significant bench trial victory for alleged patent infringement related to a generic version of the drug Testim®.
- Successfully represented drug company in significant bench trial victory for alleged patent infringement related to a generic version of the drug Travatan Z®.

In addition, Brian’s notable Hatch-Waxman patent litigation cases have involved the drugs Jublia®, Brillinta®, NuvaRing®, Difucid®, Pataday®, Testim®, and Travatan Z®.

COMMERCIAL, MECHANICAL, AND HIGH-TECH PATENT EXPERIENCE

- Represented a leading cable and telecommunications company in a patent infringement case concerning home security and monitoring products.
- Represented a leading cable and telecommunications company in a patent infringement case concerning Voice Over Internet Protocol (VoIP) technology.
- Represented a leading railcar manufacturer in a patent case concerning the design of gondola railcars.
- Represented a leading turf manufacturer in a patent case concerning the design and installation of artificial turf.
- Represented a leading medical device company in a patent case concerning spinal implant and related medical devices.
- Represented a leading fracking company in patent case concerning fracking technology.

COMPLEX COMMERCIAL LITIGATION EXPERIENCE

- Defended a leading news organization in highly publicized defamation case.

- Defended a leading private packaged foods company in a class action alleging violations of the securities laws.
- Representing a leading automotive technology company in case alleging trade secret theft and patent infringement.
- Defended drug company in case alleging negligence involving the death of a patient in a clinical trial.
- Defended front loading washing machine manufacturer in class action alleging design defect and consumer fraud.
- Defended protein shake and nutrition bars manufacturer in state and federal class actions alleging consumer fraud.

Recent Experience

Winston Secures Complete Defense Judgment for Alphatec in Prolonged Litigation Battle

NuVasive's Claims Dismissed: Alphatec Spine Wins Jury Verdict

Winston Defeats Halliburton Patent-Infringement Lawsuit Over Electric Fracking Technology at Trial in Waco

Secured Settlement for Fox on Brink of Trial in High-Profile Defamation Litigation Brought by US Dominion Voting Systems

Secured Nearly US\$105M Trial Victory Against Ford Motor Co.

Rare Noninfringement Jury Verdict for Teva N.A. in Patent Infringement Case for Suboxone® Tablets

Recognitions

Brian was named a "Rising Star" by *Super Lawyers* in 2013, 2015–2019.

Brian received the Illinois Coalition Against Sexual Assault's (ICASA) "Moxie Award" in 2011 for sharing his professional expertise to ensure that victims of sexual assault receive the support and assistance they deserve.

Activities

In 2015, Brian and attorneys with the Center for Wrongful Convictions at the Northwestern University School of Law exonerated and secured the release of a client who had been wrongfully convicted of first-degree murder and imprisoned for 15 years in the Illinois Department of Corrections. The case received significant media attention in the *Chicago Tribune* and other outlets, as being one of the very few exonerations to occur without exclusionary DNA evidence.

Brian has also represented several individuals in registering for and obtaining benefits under DACA.

Credentials

EDUCATION

Brian received his J.D., *cum laude*, from Northwestern University School of Law in 2009, where he served on and was published in the *Journal of Criminal Law and Criminology*. He received his B.A. and BBA, *cum laude*, from the University of Notre Dame in 2005.

ADMISSIONS

- Illinois

Related Insights & News

RECOGNITIONS

Winston Team Led by Tom Melsheimer Highlighted in Litigator of the Week Column

SEPTEMBER 1, 2023

CLIENT SUCCESS

Winston Acts as Lead Trial Counsel for Fox News and Fox Corp. in US Dominion Voting Systems Defamation Cases, Settling Matter on Brink of Trial

APRIL 18, 2023

CLIENT SUCCESS

Winston Secures Tremendous Victory in Jury Trial of High-Stakes Contract and Trade Secrets Dispute

OCTOBER 28, 2022

RECOGNITIONS

Winston Team Led by Dan Webb and Matthew Carter Featured in Litigator of the Week Column

OCTOBER 28, 2022

NEWS

2020-2021 Pro Bono Impact Report

2020-2021

PRO BONO IN ACTION

Winston Secures Reduced Time for Client Sentenced as a Minor to 100 Years

MARCH 2, 2021

IN THE MEDIA

Winston Recognized on Law360's List of Go-To Firms for Patent Suit Targets

FEBRUARY 27, 2020

RECOGNITIONS

Winston Named as IAM Patent Litigation Firm of the Year

JANUARY 30, 2020

SPEAKING ENGAGEMENT

Jovial Wong Speaks at ACI's Paragraph IV Disputes Conference

APRIL 29-30, 2019

RECOGNITIONS

Winston & Strawn Wins Two *Managing IP* Americas Awards 2019

APRIL 9, 2019

NEWS

Winston Announces Newly Elected Partners

DECEMBER 3, 2018

PRO BONO IN ACTION

Pro Bono Reporter – Fall 2018

FALL 2018

Capabilities

Intellectual Property

Litigation/Trials

Patent Litigation

Commercial Litigation & Disputes

Public Companies

Medical Devices

Life Sciences

Technology, Media & Telecommunications