



Lee F. Johnston

Partner

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PRACTICES Litigation, Intellectual Property, Intellectual Property Litigation, Patent Litigation, Trade Secret Litigation, Media and Entertainment Litigation, Energy Litigation, Real Estate Litigation, Privacy and Data Security, Energy, Power and Natural Resources, Copyright, Technology, Medical Device and Technology, Media, Entertainment and Sports, Class Action Defense, Securities and Shareholder Litigation

Lee Johnston is a trial lawyer who helps clients successfully resolve their most complex business disputes in an efficient, timely manner. Lee's national trial practice includes patent, copyright, trademark, and trade secret litigation, where he works with companies and individuals to maximize the value of their intellectual property portfolios and protect their competitive advantage by obtaining temporary and preliminary injunctions. Owing to his singular focus on achieving their business objectives, clients also hire Lee on a repeat basis to handle their large, complex business litigation and arbitration matters in non-IP disputes.

Lee has extensive experience in a variety of industries including telecommunications, oil and gas, financial services, outdoor/recreational and consumer products, medical devices and equipment, computer hardware and software, and semiconductor fabrication.

Clients appreciate Lee's practical, commercial approach to developing strategies for disputes. Lee recognizes that a keen understanding of each client's business goals is paramount to achieving a good result. As such, he works as a partner with his clients and serves as their trusted advisor.

Lee is president of the Colorado IP Inn of Court. He is also a faculty-presenter at the 2021 Colorado Bar Association Rocky Mountain Intellectual Property and Technology Institute.

QUALIFICATIONS

EDUCATION

- J.D., Harvard Law School, 1991, cum laude; Senior Editor, *Journal of Law and Public Policy*
- A.B., Dartmouth College, 1988, magna cum laude

LANGUAGES

- Spanish

ADMISSIONS

- Colorado
- Texas

COURT ADMISSIONS

- Supreme Court of Colorado
- Texas Supreme Court
- U.S. Court of Appeals for the Ninth Circuit
- U.S. Court of Appeals for the Tenth Circuit
- U.S. Court of Appeals for the Federal Circuit
- U.S. District Court for the District of Colorado
- US District Court for the District of Idaho
- U.S. District Court for the Eastern District of Texas
- U.S. District Court for the Eastern District of Virginia
- U.S. District Court for the Northern District of Texas
- U.S. District Court for the Western District of Texas

PUBLICATIONS AND SPEAKING ENGAGEMENTS

- "Recent Developments in Data Scraping," speaker, *HB Media Minute* podcast, October 12, 2021. [Listen here.](#)
- "From Coast-to-Coast: Patent Litigation Trends in Popular Jurisdictions," faculty presenter, Colorado Bar Association's 19th Annual Rocky Mountain Intellectual Property & Technology Institute, June 4, 2021.
- "Bad to the Bone – The Libel-Proof Plaintiff Doctrine," co-author, Haynes Boone Media, Entertainment and First Amendment Newsletter, November 2020.
- "Copyright Office Finds Aspects of the DMCA 'Unbalanced' in Favor of Online Service Providers," co-author, *Intellectual Property & Technology Law Journal*, September 2020.
- "Cybersecurity in the COVID-19 Era," moderator, Colorado American Intellectual Property Inn of Court's Meeting, October 15, 2020.
- "FTC Enforcement and False Advertising Law Updates," faculty presenter, Colorado Bar Association's 18th Annual Rocky Mountain Intellectual Property & Technology Institute, July 16, 23, 30 and August 6, 2020.
- "Copyright Office Finds Aspects of the DMCA 'Unbalanced' in Favor of Online Service Providers," co-author, Haynes and Boone client alert, May 27, 2020.
- "Ninth Circuit Rejects LinkedIn's Efforts to Block Web-Scraping of Member Profiles," *The Computer & Internet Lawyer*, Vol. 37, No. 4, April 2020.
- "Recent Cases Highlight the Growing Conflict Between AI and Data Privacy," Haynes Boone Media, Entertainment and First Amendment Newsletter, April 2020.
- "The 2015 Amendments to Rule 26 – Streamlining Discovery or Generating More Disputes?" faculty presenter, Colorado Bar Association's 15th Annual Rocky Mountain Intellectual Property & Technology Institute, June 1-2, 2017.
- "The Overlooked but Critical Stepchild – Assignments and Ownership of IP Rights," faculty presenter, Colorado Bar Association's 14th Annual Rocky Mountain Intellectual Property & Technology Institute, June 2-3, 2016.
- "Claim Drafting in Light of Recent Developments at the PTAB," speaker, 13th Annual Colorado Bar Association Rocky Mountain Intellectual Property & Technology Institute, May 29, 2015.
- "Securing Injunctive Relief in Trademark Cases," speaker, 12th Annual Colorado Bar Association Rocky Mountain Intellectual Property & Technology Institute, May 29, 2014.

- "The Intersection of Trade Dress and Design Patents," speaker, 11th Annual Colorado Bar Association Rocky Mountain Intellectual Property & Technology Institute, May 30, 2013.
 - "Patent Infringement Damages," speaker, 10th Annual Colorado Bar Association Rocky Mountain Intellectual Property & Technology Institute, May 31, 2012.
 - "Indemnification Clauses in Licenses," speaker, 9th Annual Colorado Bar Association Rocky Mountain Intellectual Property & Technology Institute, June 2, 2011.
 - "How Reexamination Can Change Your IP Strategy: Differences Between *Inter Partes* and *Ex Parte* Reexamination," speaker, 8th Annual Colorado Bar Association Rocky Mountain Intellectual Property & Technology Institute, June 4, 2010.
 - "Markman, Summary Judgment and Other Pivotal Issues in Patent Litigation," speaker, Colorado Bar Association, September 24, 2009.
 - "Patent Law Update," speaker, National Business Institute, November 13, 2008.
 - "Computer Software Experts," speaker, Colorado Bar Association IP & Technology Institute, June 2, 2006.
 - "Powerful Evidence in Civil Litigation," speaker, National Business Institute, February 13, 2004.
 - "Complex Civil Litigation," speaker, National Business Institute, December 4, 2003.
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PROFESSIONAL AFFILIATIONS AND ENGAGEMENTS

- American Bar Association, Patent, Trademark, Copyright Section
 - American Intellectual Property Law Association
 - Texas and Colorado Bar Associations
 - Board Member, Colorado IP Inn of Court
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SELECTED CLIENT REPRESENTATIONS

License and Patent Infringement

- Obtained a permanent injunction on behalf of a U.S.-based consumer products manufacturer against foreign competitor in a multi-patent case involving fluid dynamics technology.
- Obtained dismissal of all claims against an international, Fortune 100 telecommunications company in a dispute over IP rights to cellular broadcast platform.
- Obtained a walk-away dismissals of patent cases involving modem and encryption technologies.
- Successfully defended an international telecommunication device manufacturer in patent case involving VoIP technology.
- Obtained multi-million dollar settlement on behalf of SaaS telecommunications support company against its primary competitor in case involving patented workforce management technology.
- Successfully defended performance mountain bike manufacturer against its main competitor in patent case involving bicycle suspension technology.
- Successfully defended client against patent infringement claims involving fitness equipment technology.
- Represented a developer and manufacturer of patented desiccant de-humidification systems in license dispute before the American Arbitration Association.
- Defended a public university and professor in a patent infringement case involving immunoassay techniques and technology.
- Represented a publicly-traded medical device manufacturer in a patent infringement case involving image-guided surgical technology.
- Represented a publicly-traded medical device manufacturer in a series of patent infringement cases involving photo-ablative lasers and related components which are used in heart surgery.

- Successfully defeated a request for preliminary injunction sought by a licensee of technology relating to network video and motion detection in security applications. Trade Secret and Unfair Competition Litigation.
- Successfully represented SaaS telecommunications support company in trade secrets case against competitor relating to client's APIs for its workforce management technology.
- Won a multi-million dollar verdict and permanent injunction for B-to-B logistics company after two week federal jury trial on trade secret and Computer Fraud and Abuse Act claims; case affirmed in all respects by Ninth Circuit.
- Obtained permanent injunction and consent judgment on behalf of consumer products company prohibiting former employee's use or disclosure of client's trade secret dental cleaning technology.
- Obtained monetary settlement and injunctive relief for a software developer in the telecommunications and cable industry against former employees for misappropriation of trade secrets and violations of the Computer Fraud and Abuse Act.
- Successfully defended a semiconductor manufacturer in trade secrets/employee poaching case brought by its primary competitor.
- Successfully defended an Internet and print-based publisher of energy-related information and technology in a product disparagement and unfair competition case.
- Successfully defeated a competitor's request for a preliminary injunction against a Fortune 100 insurance brokerage client based on alleged theft of trade secrets.

Copyright/Trademark Infringement

- Represented high performance mountain bicycle company in a series of TTAB opposition proceedings and later assisted in negotiations of trademark license.
- Won summary judgment dismissal of trademark and trade dress infringement case based on no likelihood of confusion; case affirmed in all respects at Tenth Circuit.
- Obtained permanent injunction and monetary damages on behalf of a Fortune 500 company in federal district court trademark/counterfeiting case involving illegal importation and distribution of olive oil.
- Represented ringtone aggregator in trademark litigation against industry competitor.
- Obtained favorable settlement for an international medical device manufacturer in a trade secret and copyright infringement matter brought against a former employee and his new employer.
- Prosecuted claims on behalf of a manufacturing client against a former employee for theft of trade secrets and copyright infringement of technical machine drawings and specifications.

Computer Software and Hardware

- Obtained favorable monetary settlement for life insurance company in lawsuit against software developer.
- Obtained a complete dismissal of a purported class action brought by consumers against a Fortune 100 computer hardware manufacturer arising out of allegedly defective disk drives.
- Obtained a favorable settlement for a publicly-traded telecommunications client in a software performance case against a worldwide software developer.

Class Action

- Defense of Federal Securities Act Class Actions in Colorado Courts. Defending an oilfield services company against securities class actions in Colorado state and federal courts alleging misstatements in connection with the company's initial public offering.
- Successfully represented a Fortune 100 financial services company in a consumer fraud class action involving the company's business equipment leasing program. After a two-day class certification hearing, the court denied class certification. The case ultimately settled with the plaintiff's agreement to make a nominal settlement payment to the company.

- Successfully represented a Fortune 100 financial services company in a series of federal securities class actions involving its former telecommunications broker.
 - Defended private equity firm and portfolio company in federal securities class action in connection with the company's going-private transaction.
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AWARDS AND RECOGNITION

- Recognized as a leading lawyer in *Intellectual Asset Management (IAM) Patent 1000: The World's Leading Patent Practitioners*, Globe White Page Ltd, 2020-2022
- Recognized in *Colorado Super Lawyers*, Thomson Reuters, 2011-2016 and 2018-2019
- Recognized in *The Best Lawyers in America*, Woodward/White, Inc., 2012-2022
- Recognized as a "Local Litigation Star – Colorado" by *Benchmark Litigation*, 2015-2018