



## Partner

# Jason Joyal



Jason Joyal specializes in trademark, trade dress, copyright, false advertising, and unfair competition litigation and counseling. He represents clients in diverse industries in federal courts throughout the country, and routinely before the U.S. Patent and Trademark Office's Trademark Trial and Appeal Board (TTAB).

With particular experience in contentious matters, Jason helps guide the firm's clients through all phases of intellectual property enforcement and litigation, including cease-and-desist strategy, initial pleadings, strategic use of pretrial discovery, preservation, collection and searching of electronically stored information (ESI), dispositive motions, mediations, and trial. He has authored many successful briefs, including motions to dismiss, motions for summary judgment, and trial briefs before the TTAB, and has leveraged several others into favorable and cost-effective resolutions. Jason also regularly counsels the firm's clients on trademark prosecution and enforcement strategy, and on novel issues concerning public domain and the intersection of trademark and copyright law. He also has experience advising and representing insurers on matters involving intellectual property insurance coverage and advertising injury claims.

Clients, colleagues, and leading industry associations consistently recognize Jason as an exceptional intellectual property attorney. He has been named to the *World Trademark Review* and is recognized by *IP Stars* and *Super Lawyers*. Clients applaud Jason as, among other things, "incredible to partner with," "deeply knowledgeable of relevant precedents," and an "exceptional brief writer."

Before joining Kelly IP, Jason gained significant intellectual property litigation experience in both the Los Angeles and Washington, D.C. offices of an international law firm. Prior to that, Jason served as a judicial law clerk in the United States District Court for the Central District of California. While clerking in one of the country's busiest federal district courts, Jason performed extensive legal research and analysis in several Lanham Act and Copyright Act matters, and drafted hundreds of judicial orders and published opinions. While earning his law degree, Jason served as a staff editor for his school's Law Review and was a winning oralist and writer for the Moot Court Honors Program.

Outside of the office, Jason enjoys spending time with his wife and three boys, cheering for his hometown Dodgers, and playing an occasional round of golf.

### 01. Highlights

→ *Caribe Corp. v. Philips* (D.N.J.). Member of trial team that obtained finding of no liability in Philips's favor on trademark infringement claims asserted by Caribe against Philips's corporate tagline, and reversal of TTAB decision finding a likelihood of confusion between the parties' marks.

#### → Contact Information

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#### → Education

- Southwestern Law School, J.D., cum laude, 2007
- University of California, San Diego, B.A., Political Science, 2004

#### → Bar and Court Admissions

- District of Columbia
- California
- U.S. Court of Appeals for the Federal Circuit
- U.S. District Court, Central District of California
- U.S. District Court, Northern District of California
- U.S. District Court, Eastern District of Wisconsin

## → Professional Activities

- International Trademark Association
- American Intellectual Property Law Association
- District of Columbia Bar Association (Section on Intellectual Property Law)
- California Lawyers Association (Section on Intellectual Property Law)

- *Great Harvest Franchising, Inc., et al. v. Panera Bread Company* (W.D.N.C.). Defended Panera in trademark infringement action brought by Great Harvest alleging Panera's FOOD AS IT SHOULD BE tagline infringed Great Harvest's BREAD. THE WAY IT OUGHT TO BE. tagline. Case was amicably resolved without any admission of liability by Panera and with Panera continuing to use its FOOD AS IT SHOULD BE tagline.
- *H.D. U.S.A., LLC v. SunFrog, LLC* (E.D. Wis.). Member of litigation team that obtained summary judgment for Harley-Davidson on its trademark infringement and counterfeiting claims, a permanent injunction prohibiting defendants from selling infringing products, and an award of \$19.2 million in statutory damages.
- *Juan Pablo Chavez v. British Broadcasting Corp.* (S.D.N.Y.). Successfully moved to dismiss plaintiff's copyright and trademark infringement claims arising out of the BBC's use of plaintiff's alleged works and marks; decision affirmed on appeal at the United States Court of Appeals for the Second Circuit.
- *Cobra Engineering, Inc. v. H.D. U.S.A., LLC* (C.D. Cal. and E.D. Wis.). Defended Harley-Davidson against declaratory judgment action, successfully transferring the case from California to Wisconsin on personal jurisdiction and venue grounds. Case was amicably resolved shortly after transfer.
- *Twin Cities Public Television, Inc. v. RH Reality Check* (D. Md.). Represented preeminent Public Broadcasting Service (PBS) affiliate television station in a trademark litigation against RH Reality Check, an online news reporting service focused on gender, race, and political issues regarding use of the mark REWIRE.
- *Fidelity National Information Services, Inc., et al. v. Direct Horizon Business Development, Inc., et al.* (M.D. Fla.). Represented FIS and Chex Systems in a cybersquatting and counterfeiting action and obtained a consent judgment and permanent injunction.
- *Disney Enterprises, Inc. v. United Trademark Holdings, Inc.* (TTAB & Fed. Circuit). Successfully opposed applications filed by United Trademark Holdings for the marks TEEN TINKERBELL and TEEN TINK (stylized), serving as winning trial brief coauthor on novel "public domain" issues; decision affirmed on appeal at the United States Court of Appeals for the Federal Circuit.
- *Lucasfilm Entertainment Company Ltd. LLC v. Moskowitz* (TTAB). Successfully opposed application for the mark MILLENNIAL FALCON; lead author on winning trial brief.
- *The Travelers Indemnity Company v. Vilches* (TTAB). Successfully opposed application for a stylized red umbrella logo on likelihood-of-confusion grounds, obtaining a fame finding for Travelers' iconic red umbrella logo.
- *NJOY, LLC v. Wang Xi Zhi* (TTAB). Successfully opposed application for the mark IJOY for, among other things, electronic cigarette products; lead author on winning trial brief.
- *Teton Gravity Research, LLC v. ETW Corp.* (TTAB). Represented ETW Corp.—the entity for managing and conducting Tiger Woods's golf, business, and charitable ventures—in concurrent opposition proceedings involving the mark TGR.
- *World Wildlife Fund, Inc. v. Panda Restaurant Group, Inc.* (TTAB) – Represented WWF in opposition proceeding against Panda Restaurant Group's (Panda Express) application for the mark PANDA CARES (stylized).

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## 02. Select Publications

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- Coauthor. “What High Court Free Speech Ruling Means For TM Applicants,” Law360 Expert Analysis (2019)
- Coauthor. “How 'Raging Bull' Case Could Impact Entertainment Industry,” Law360 Expert Analysis (2014)
- Author. “Be Kind, Rewind: Legal Precedent In Dish Ad-Skipping Case,” Law360 Expert Analysis (2013)
- Author. “How The Village People's Cop Laid Down The Law,” Law360 Expert Analysis (2012)

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## 03. Select Speeches

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- Presenter. “Trademark Opposition and Cancellation Proceedings at the TTAB,” Strafford IP Webinar (March 2022)
- Presenter. “Trademark Basics,” select clients and various industry groups (2019 – present)
- Co-Presenter. “Grounds for Opposition and Cancellation,” American Intellectual Property Law Association, Trademark Bootcamp (2019-2021)
- Presenter. “Ethical Issues Before the USPTO,” American Intellectual Property Law Association, Trademark Bootcamp (2019-2021)

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## 04. Professional Recognition

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- Named in World Trademark Review 1000, including ranking as a Bronze status lawyer in the DC Metro Area for trademark enforcement and litigation (2021, 2022)
- Recognized by Managing Intellectual Property IP Stars as a “Notable Practitioner” (2020) and “Rising Star” (2021, 2022)
- Recognized by Super Lawyers as an Intellectual Property “Rising Star” (2014-2022)