



## Brendan McCommas

### SENIOR COUNSEL

WASHINGTON, DC

PHONE: 202.378.2388

EMAIL: BRENDAN.MCCOMMAS@HUSCHBLACKWELL.COM

### OVERVIEW

With an extensive background in complex patent and technology-intense matters, Brendan represents clients in commercial and intellectual property litigation.

Brendan previously served as the Chief of Staff to the Undersecretary and Director of the U.S. Patent and Trademark Office (USPTO), where he was the principal advisor to the Director, helping oversee almost 13,000 employees and manage a \$3.3 billion budget. In his role at the USPTO, he participated in briefing and argument preparation for numerous cases at the Federal Circuit and Supreme Court. Recent cases include *WesternGeco v. Ion Geophysical*, *Oil States v. Greene's Energy Co.* and *SAS Institute v. Iancu*, among others. In addition, Brendan helped manage major policy projects, including the USPTO's 2019 Section 101 Guidance and numerous rules governing the Patent Trial and Appeal Board (PTAB).

Currently, Brendan focuses on the technology, manufacturing and transportation industries in complex intellectual property disputes involving patents, trademarks, copyrights, licensing and trade secrets. He has experience at every level of intellectual property litigation, including federal district court, the PTAB and the International Trade Commission (ITC). His goal is always to win at every level for clients—but he also knows when it's in a client's best interest to settle a case.

After his time at the Department of Commerce and USPTO, Brendan served as Special Assistant to the President and Counselor for Trade and Manufacturing at the White House. In this role, he advised Cabinet-level secretaries, senior White House advisors, and the President of the United

### Industries

Manufacturing

Technology

Transportation

### Services

Copyrights

Intellectual Property

Intellectual Property Litigation

Litigation & Alternative Dispute Resolution

Trade Secrets & Business

Information Protection

Trademarks

States on trade, manufacturing and intellectual property issues. Brendan is known for his inside view of how rules and laws are made provided by his front row seat in the U.S. government at the White House and Department of Commerce. He enjoys his practice area partly because intellectual property rules are continually evolving, and his background gives him an edge in predicting where the law is likely to shift next. It also gives him a talent for understanding matters from both the client's and the court's perspectives so that he knows the best way to present an argument to a judge.

Clients appreciate Brendan's understanding of their intellectual property itself: he has extensive experience with cases involving high-tech products, and he holds a degree in electrical engineering.

### Experience

- Worked with the Department of Justice and the Solicitor General's office on briefing and argument for various cases before the Supreme Court including *Western Geco v. Ion Geophysical*, *Iancu v. Brunetti*, *Helsinn Healthcare v. Teva*, among others.
- Edited numerous Federal Circuit briefs and participated in moot arguments related to intellectual property litigations including *In re Tropp*, *Realtime Data v. Iancu*, and *In re Macor*, among others.
- Participated in the review of decisions regarding PTAB appeals before the Precedential Opinion Panel, including *Proppant Express v. Oren Techs*, IPR2018-00914, and *GoPro v. 360 Heroes*, IPR2018-10139.
- Represented a company before the PTAB in multiple Inter Partes Review proceedings including preparing petitions, expert reports, motions, and claim constructions and briefing expert for deposition for *FPUSA v. M-I LLC, LLC* (PTAB, IPR2016-00213 and IPR2016-00295, all claims instituted, PTAB Judges Tartal, DeFranco, and Goodson).
- Coordinated with trial team and reviewed district court filings and Federal Circuit briefs for *M-I LLC v. FPUSA, LLC*, (W.D. Tex., 2015, Judge Ezra) and *M-I LLC v. FPUSA, LLC* (Federal Circuit, 2015, Judges Prost, Bryson, and Hughes).
- Represented a Fortune 500 company in multi-million dollar trade secret litigation in the northern district of California (Judge Davila).

## Experience

- Represented a company in 337 litigation over biotechnology patents.
- Reviewed complaint and strategized for settlement, answer, and discovery in *Uniloc USA, Inc. et al v. ADP, LLC* EDTX-2-16-cv-0074 (Judge Shroeder).
- Reviewed complaint and answer, and strategized for settlement in *Azure Networks, LLC v. Toshiba America Information Systems, Inc. et al* EDTX-6-15-cv-00028 (settled favorably, Judge Shroeder).
- Defended a client over copyright infringement in Washington, D.C. federal district court *Dvir. v. Los Angeles Blade* (D.D.C. 2021, Judge Boasberg).
- Reviewed filings and advised on expert selection for defending a patent attorney in malpractice litigation, *Michael Sandefur v. Gary Price* (Indiana state court).
- Provided contract and IP counsel for a company regarding contracts worth over \$200 million.
- Drafted patents and opinion letters for major companies in the artificial intelligence and image analysis industries.
- Represented a startup food company with over \$200 million in Series D funding in expanding their IP assets; provided counsel to the company on trade secrets law.

## Education

- J.D., University of Virginia School of Law
  - *Virginia Journal of Law and Technology*, Editorial Board
- M.A., Georgetown University
  - English
- B.S., Grove City College
  - Electrical Engineering

## Admissions

- Texas
- District of Columbia
- U.S. Patent and Trademark Office



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