

## Jonathan E. Moskin

### Partner

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Jonathan E. Moskin has acted as lead trial counsel and otherwise litigated trademark, copyright, and patent cases, as well as contract disputes, privacy matters, false advertising, and right of publicity cases in numerous federal, trial, and appellate courts. He is a partner in the firm's IP Litigation Practice Group as well as its Trademark, Copyright & Advertising and Privacy, Security & Information Management Practices.

Jonathan is described by clients as a "superb communicator" who also "has an eye for practical advice" and a "leader in the field."

He has successfully represented major companies in intellectual property matters, including Acco Products; Anne Frank House, Aristocrat Technologies; Cablevision; Calvin Klein; Cannondale Bicycle Corp.; Citigroup; Caesars Entertainment; Diageo; Distillerie Stock; Deutsche Bank Trust Co.; Emjoi, Inc.; Field & Stream Holdings, LLC; Games Workshop; Hasbro; Herman Miller, Inc.; Ingersoll-Rand; Jim Beam Brands; JP Morgan & Chase Co.; Novartis; Phillips Van Heusen; Priceline; QVC, Rambus, Inc.; Sony Pictures Entertainment; Stiefel Laboratories; Swiss Army Brands; Target and Valentino.

Prior to joining Foley, Jonathan was a partner at other large law firms, where he was chair of the Trademark/Copyright Group.

### Awards and Recognition

- Peer Review Rated as AV Preeminent®, the highest performance rating in Martindale-Hubbell® Peer Review Ratings™ system
- Regularly recognized among the top Intellectual Property Lawyers by *The Legal 500 USA*, most recently in 2017 and 2018, and also in the area of marketing and advertising in 2011 – 2014, 2016, and 2017
- Selected by his peers for inclusion in *The Best Lawyers in America*® since 2013 in the field of Litigation – Intellectual Property

- Ranked by *Who's Who Legal: Trademarks* since 2015
- Selected for inclusion in the *New York Super Lawyers®* list for his intellectual property litigation work in 2006 – 2007, 2012 – 2023)
- Named in the *World Trademark Review's* "WTR 1000" directory since its inception in 2011, where he is described as "smart, skilled and reliable litigator with a great depth of experience and a very practical approach to lawyering"
- Listed in the *Euromoney's Guide to the World's Leading Trade Mark Law Practitioners*

## Affiliations

- Former Chairman of the New York Intellectual Property Law Association's Privacy Law Committee
- Former Chairman of the New York Intellectual Property Law Association's Internet Law and Design Protection Committees
- Former editor-in-chief of *The Trademark Reporter*
- Editorial board member for the Intellectual Property Strategist
- Editorial board member for the Queen Mary Studies in Intellectual Property Law and Policy series
- Barrister in the William C. Conner Inn of Court
- Adjunct professor at Fordham Law School

## Presentations and Publications

- "ML Genius and Copyright Preemption," *PLI* (2023)
- "All Is Not Fair In Love and Warhol," *The IP Strategist* (June 20, 2023)
- *Is Trademark Protection Going to the Dogs?* (March 21, 2023)
- "Augurs and Oracles: Divining Trends Concerning Fair Use After Google v. Oracle," *PLI* (2022)
- Co-author, "Designs 2022 Law" – *Lexology* (2021)
- "Section 230 Of The CDA – Twenty Five Years Later," *PLI* (2021)
- "Unseating Inelegant Notions Of Product Design Functionality," Vol. 27 *The IP Strategist* No. 3 (December 1, 2020)
- "The DMCA – A 2020 Perspective," *PLI* (September 15, 2020)
- "Nantkwest Reaffirms The American Rule In De Novo Challenges to the PTO," Vol. 26 *The IP Strategist* No. 5 (Feb. 1, 2020)
- "Augurs and Oracles: Divining Trends Concerning Fair Use," *PLI* (2019)
- "Supreme Court May Give Brand Owners An Easier Path To Trademark Damages," *The IP Strategist* (2019)
- "Booking.com v. Iancu," *The IP Strategist* (2019)
- "A Short Discourse on Converse: Cobbling Together New Rules for Design Rights?" *The Trademark Reporter*, Vol. 109 No. 3 (May-June 2019)
- *The DMCA – Twenty Years Later* – *PLI* 2018
- *The Price to Pay for De Novo Review of PTO Decisions*, *The IP Strategist* (September 2018)

- *Crisis of Candor: Is the Jury System at Risk From Alternative Facts?* Bloomberg Law Insights, Vol. 86 No. 39 (May 2018)
- *The KKK Took My Trademark Away: Culture Wars and Trademark Law Meet In The Supreme Court's Decision on Disparaging Marks* – PLI 2017
- *C-O-P-Y-R-I-G-H-T: What Does That Spell? Start Athletics v. Varsity Brands Reimagines Protection for Useful Articles*, The Trademark Reporter, Vol. 107 No.3 (May-June 2017)
- *The Blurry Lines of Fair Use* – PLI 2016
- *App-portionment In the Supreme Court In Apple v. Samsung*, The IP Strategist (June 2016)
- *The Terminator: Coming Soon To A Federal District Court Near You* – PLI 2015
- *B&B Offers Rest And Repose*, The IP Strategist (May 2015)
- *Roll Over Gutenberg, Tell Mr. Hull the News*, IPO 42<sup>nd</sup> Annual Meeting (September 8, 2014)
- *Roll Over Gutenberg, Tell Mr. Hull the News: Obstacles and Opportunities from 3D Printing*, The Trademark Reporter, 811 Vol. 104 No. 3 (May-June 2014)
- *Will There Be Any Repose at This B&B? The Supreme Court Weighs Collateral Estoppel from the TTAB*, The Trademark Reporter, Vol. 104 No. 6 (November-December 2014)
- *Grey Market and Exhaustion* – PLI 2014
- *Maddeningly Mismatched Matches*, The IP Strategist (September 2013)
- *Return of the Undead: Golan v. Holder And The Public Domain*, The IP Strategist (December 2012) and Fordham Law School (2012)
- *The Rise and Fall and Rise of Aesthetic Functionality*, ABA 27th Annual Intellectual Property Law Conference (March 30, 2012)
- *Retargeting Keyword Ads for Potential New Uses*, Franchising Business and Law Alert, ALM Newsletters, Vol. 17 No. 4 (January 2011)
- *Seeing Red: The Reemergence of Aesthetic Functionality*, The IP Strategist (November 2011) and <https://www.foley.com/-/media/files/insights/events/2011/09/the-exponential-speed-of-innovation-is-ip-driving/files/seeing-red-the-reemergence-of-aesthetic-functional/fileattachment/seeingred.pdf> (September 2011).
- *A Roll of the Dice for International Trademark Owners Lessons from In re Casino de Monaco Trademark Litigation*, The Intellectual Property Strategist, ALM Newsletters, Vol. 16, No. 10 (July 2010)
- Co-author, *U.S. District Court Tries to Slow the Speed of Information in "Barclay's Capital"*, ipFrontline.com (April 2010)
- *The Global Contours of IP Protection for Trade Dress, Industrial Design, Applied Art, and Product Configuration*, Fordham Intellectual Property, Media & Entertainment Law Journal, 783 Vol. 20 No. 3 (Spring 2010)
- *The Little License That Could – Dangers of Using Open Source Code After Jacobsen v. Katzer*, The Intellectual Property Strategist, ALM Newsletters, Vol. 15, No. 7 (April 2009)
- *Bone of Fido Parody: Louis Vuitton v. Chewy Vuiton*, The Intellectual Property Strategist, ALM Newsletters, Vol. 14, No. 5, (February 2008)

- *Virtual Trademark Use: The Parallel World of Keyword Ads*, The Trademark Reporter, 873, Vol. 98 No. 3 (May/June 2008)
- *Virtual Trademark Use: The Parallel World of Keyword Ads*, Journal of Internet Law, Aspen, Vol. 11, No. 8 (February 2008)
- *A New Line In Protecting Trade Dress In Once-Patented Subject Matter*, Intellectual Property Strategist, (January 2007)
- *Establishing Injury Presents Challenge In Lawsuits over Right of Publicity*, Intellectual Property Strategist (November 2006)
- *Downhill Ride for Right of Publicity*, The Intellectual Property Strategist, (June 2006)
- *You're Going to Serve Someone, but Will You Have Jurisdiction?* The Intellectual Property Strategist, (November 2005)
- *Frankenlaw: The Supreme Court's Fair and Balanced Look at Fair Use*, The Trademark Reporter 848 Vol. 95 No. 4 (July/August 2005)
- *The Unfair Case of Fair Use*, Managing IP (February 2005)
- *Raising The Stakes In Copyright Litigation: The Availability of Punitive Damages*, The Intellectual Property Strategist (January 2005)
- *Victoria's Big Secret – Whither Dilution under the Federal Dilution Act*, The Trademark Reporter, 842, Vol. 93 (July/August 2003)
- *Victoria's Big Secret: Does the Federal Dilution Statute Remedy Dilution?*, Trademark World, (February 2003)
- *The Shape of Things to Come – Emerging Theories of Design Protection*, The Trademark Reporter 681, Vol. 92 (May-June 2002)
- *The Changing Shape of Design Protection*, Intellectual Property Law Newsletter, Vol. 20 No. 3 (Spring 2002)
- Co-author, *Licensing Intellectual Property* in M. Moskin, Commercial Contracts, Aspen (2001)
- *Strategies for Litigating Copyright, Trademark & Unfair Competition Cases*, New York, NY, (PLI November 2001)
- *Navigating Choppy Waters in Safe Harbors: Contributing Liability of Internet Service Providers*, The Intellectual Property Strategist, (July 2001)
- *A Shallow Grave For Deep-Linking*, IP Network News, (April 2000)
- *Internet Governance System Evolves*, New York Law Journal, (March 1999)
- *Board The Moving Bus: Trademark Owners Beware of Proposals to Improve Management of Internet Names and Addresses*, 88 The Trademark Reporter 213, (June 1998)
- *Dilution Act: Patent Medicine For Trademark Ailment?*, New York Law Journal, (March 1996)
- *Dilution or Delusion: The Rational Limits of Trademark Protection*, 83 The Trademark Reporter 122, (1993)
- *Make Room For the Stars: Copyright Preemption And The Right of Publicity*, 33 Copyright Law Symposium 159 (1983)

## Thought Leadership

- Jonathan is a frequent author and speaker on intellectual property issues. Based on his publications concerning state dilution statutes, he was invited to testify before Congress when it was considering adoption of the Federal Trademark Dilution Act.
- Jonathan was also a recipient of national honors in the Nathan Burkan Memorial Competition for an article entitled “Make Room for the Stars: Copyright Preemption and the Right of Publicity,” (33 Copyright L. Symp., ASCAP, 159, 1983).

## Sectors

- [Automotive](#)
- [Energy](#)
- [Innovative Technology](#)
- [Manufacturing](#)
- [Racial Justice & Equity](#)

## Practice Areas

- [Financial Institutions](#)
- [IP Litigation](#)
- [ITC Section 337 Proceedings](#)
- [Intellectual Property](#)
- [Patent Litigation](#)
- [Trademark, Copyright & Advertising Counseling](#)
- [Trademark, Copyright & Advertising Litigation](#)

## Education

- Boston College Law School (J.D., cum laude, 1983)
  - Member, *Boston College Law Review*
- Oberlin College (B.A., 1979)
  - Philosophy

## Admissions

- New York State
- U.S. District Courts for the Eastern, Southern, and Western Districts of New York
- U.S. District Court for the District of Colorado
- U.S. District Court for the Eastern District of Michigan
- U.S. Supreme Court
- U.S. Courts of Appeal for the 1st, 2nd, 3rd, 4th, 7th, 9th, 10th, and Federal Circuits