

## Brian Focarino

Associate



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Boston

Trademark, Copyright and Advertising  
Intellectual Property Litigation  
Sponsorships, Endorsements and Promotions  
Internet and Social Media  
Digital Media and Entertainment  
Food and Beverage  
Retail and Consumer Products

Brian represents established and emerging companies across a full range of trademark, copyright and advertising matters. In addition to his practice, Brian is passionate about teaching and mentoring the next generation of lawyers. He teaches trademark law at Suffolk Law School and co-chairs the Cooley Inclusion Alliance, where he leads firmwide initiatives to recruit, mentor and advance exceptional, underrepresented legal talent.

Brian has a vibrant and varied intellectual property practice and represents emerging companies and iconic brands across diverse industries and geographies. He has significant experience in complex matters relating to trademarks, trade dress, copyright, false advertising, unfair competition, cybersquatting and counterfeiting. Brian advises companies on worldwide brand selection, development and protection, provides strategic counsel for IP disputes, builds and manages global IP portfolios, and partners on strategic corporate transactions and diligence matters. When litigation is necessary, he achieves successful results for clients in federal courts, in opposition and cancellation proceedings before the US Patent and Trademark Office's Trademark Trial and Appeal Board, and in domain name disputes before the National Arbitration Forum and World Intellectual Property Organization.

Before joining Cooley, Brian interned at Google and Verizon, where he focused on trademark, copyright and internet law matters. He also interned for Chief Judge Randall R. Rader of the US Court of Appeals for the Federal Circuit.

During law school, Brian was awarded the Warnement Scholarship in Intellectual Property Law and was president of the Student Intellectual Property Society, executive editor for the William & Mary Business Law Review, and a member of the Appellate and Supreme Court Clinic. He is the current vice president of the Alumni Association at William & Mary – his undergraduate and law school alma mater – where he fosters connections and opportunities for alumni and students.

### Publications and Citations

- Author, Volunteer Spotlight: Peter Brody, Ropes & Gray, Int'l Trademark Ass'n Bulletin (Dec. 1, 2018)
- Author, Committee Spotlight: Leadership Development–Diverse Messengers with Diverse Messages, Int'l Trademark Ass'n Bulletin (Oct. 15, 2018)
- Author, Committee Spotlight: Impact Studies Committee Hits Its Stride, Int'l Trademark Ass'n Bulletin (July 2, 2018)
- Author, [Tackling “Tokenism” in Legal Departments and Law Firms \(It’s Not Just a Virtual Currency\)](#), Ass'n of Corporate Counsel (March 26, 2018),

- Author, [C-Suite Executives More Aware of Trademark Portfolio Risk and Reward](#), IPWATCHDOG (Apr. 18, 2017)
- Author, [Disparaging Marks: The Question of Offensiveness](#), World Trademark Review (Jan. 2, 2017)
- Co-Author (with John W. Crittenden), [Supreme Court to Consider "Disparaging" Trademarks](#), IPWATCHDOG (Oct. 2, 2016)
- Author, [Trader Joe's and Extraterritorial Application of the Lanham Act](#), IPWATCHDOG (Sept. 21, 2016)
- Author, [Associates Can Lead Diversity Efforts, Too \(Perspective\)](#), Bloomberg Law (July 1, 2016)
- Author, [Brand Owners Watch as Smoke Clears on Plain Packaging Efforts](#), IPWATCHDOG (June 16, 2016)
- Author, [Social Media and the Rise of Opportunistic #Trademark Filings](#), IPWATCHDOG (Apr. 14, 2016)
- Author, [The Trademark as a Novel Innovation Index](#), 9 J. Bus. Entrepreneurship & L. (2016)
- Co-Author (with John W. Crittenden), [Federal Circuit Strikes Ban on "Disparaging" Trademarks](#), Cooley (Dec. 29, 2015)
- Author, [Napa Valley Vintners First Wine Group in US to Receive Certification Mark Registration](#), IPWATCHDOG (Dec. 27, 2015)
- Author, [Unconstitutional – CAFC Rules PTO Cannot Deny Registration for Disparaging Trademarks](#), IPWATCHDOG (Dec. 23, 2015)
- Author, [Patent Law's Unexceptional Future](#), 2015 Corporate IP Inst. (Ga. State Univ. College of Law and J. Mack Robinson College of Business), Oct. 2015, at VI
- Author, [The Trademark as a Novel Innovation Index](#), AUG./SEPT. 2015 REPORT (N.Y. Intellectual Prop. Law Ass'n), Oct. 2015, at 1, 3-10
- Co-Author (with Renée C. Quinn), [Happy Birthday to You' Now in the Public Domain \(Sort Of\)](#), IPWATCHDOG (Oct. 28, 2015)
- Author, [Trademark Tea Leaves: Balancing Product Secrecy with Public Trademark Registration](#), IPWATCHDOG (Oct. 8, 2015)
- Author, [To the Batmobile! Copyright Saves the Day in Gotham City](#), IPWATCHDOG (Sept. 24, 2015).
- Author, [Dancing Baby Center Of Test Case Over Bad DMCA Takedowns](#), IPWATCHDOG (Sept. 21, 2015)
- Author, [Patent Law's Unexceptional Future](#), 97 J. Pat & Trademark Off Soc'y 472 (Sept. 2015)
- Author, [Big Tobacco Heads to Court Over Cigarette Plain Packaging Laws](#), IPWATCHDOG (July 19, 2015)
- Author, [Bad News for the Redskins Trademark – Registration Exempt from First Amendment Scrutiny](#), IPWATCHDOG (July 14, 2015)
- Author, [Free Speech or Scandal? The Slants Case and the Future of Disparaging Trademarks](#), IPWATCHDOG (July 5, 2015)

#### **Media and podcasts**

- Speaker, Practicing TM, Copyright, IP & Related Areas of Law, [Making Connections in Boston's IP Community](#), Boston Patent Law Association, February 2020
- Quoted, [Arch-Conservative Political Pundit Obtains 'Media Malpractice' Trademark](#), IPWatchdog, October 2016

- Guest, Episode 332: [Drones Without Borders](#), "This Week in Law" podcast, January 2016
- Quoted, [Trademarks May Make for a Better Innovation Index in China](#), World Trademark Review, July 2015

### Panels and Presentations

- Invited Moderator, *Visit America's National Marks!*, International Trademark Association Annual Meeting, Houston, TX (November 2020)
- Guest Lecturer, Trademark Law Course, William & Mary Law School, Williamsburg, Virginia (April 16, 2020)
- Panelist, *Making Connections in Boston's IP Community*, Boston Patent Law Association, Boston, MA (February 4, 2020)
- Panelist, "Navigating Disruptive Technologies," American Bar Association IP West Conference, Long Beach, CA (October 11, 2017)
- Moderator, "Nominative Fair Use: How Much is Too Much?," International Trademark Association Annual Meeting, Barcelona, Spain (May 24, 2017)
- Panelist, Silicon Valley Comic Con's "Geek Law 101: Intellectual Property Law Basics" Silicon Valley Comic Con (March 20, 2016)

## Education

William & Mary Law School  
JD, 2015

University of Edinburgh  
MSc, 2012

College of William & Mary  
BA, 2011

## Admissions & Credentials

California

Massachusetts

## Rankings & Accolades

- 2018 Douglas N. Morton '62 Young Alumni Service Award, William & Mary Alumni Association (Sept. 2018)
- Rossman Memorial Award – Honorary Mention, US Patent and Trademark Office Society (Feb. 2017)
- 1st Place, Georgia State University Intellectual Property Writing Competition (Sept. 2015)
- 2nd Place, IDEA Student Intellectual Property Writing Competition, University of New Hampshire School of Law (June 2015)
- 1st Place, Hon. William C. Conner Intellectual Property Law Writing Competition, New York Intellectual Property Law Association (May 2015)
- Outstanding Member Award, William & Mary Business Law Review (May 2015)

- Thalia V. Warnement Scholar in Intellectual Property Law, William & Mary Law School (2013 – 2015)
- Lawrence W. l'Anson Scholar, William & Mary Law School (2012 – 2015)

## Memberships & Affiliations

William & Mary Alumni Association, Board of Directors (July 2020 - Present)

Young Practitioners Committee of the International Trademark Association

Pathfinder for the Leadership Council on Legal Diversity

Bulletin Committee of the International Trademark Association January 2018 December 2021

Editorial board of Landslide magazine October 2017 March 2018

Board of directors of William Mary Libraries July 2017 June 2020

International Trademark Association, Impact Studies Committee (January 2016 - December 2017)

American Bar Association, Section of Intellectual Property Law, Young Lawyer Fellow (June 2016 - June 2019)

Fellow of the Internet Law and Policy Foundry September 2015 September 2018