

Tim Smith is an experienced litigator with more than 20 years' experience practicing in Utah State Courts and numerous Federal Courts. He is also a skilled intellectual property attorney that advises companies from startup phase through tremendous growth stages. Clients and colleagues respect his candor, judgment and dedication in providing valuable legal services.



Timothy B. Smith

Shareholder | Salt Lake City

Biography

Mr. Smith has a broad range of substantive experience acting as both defense counsel and plaintiff's counsel in commercial litigation matters. Representative cases include defending clothing designer in patent infringement action; defending ear buds manufacturer in patent infringement action; prosecuting a breach of contract action involving the sale of a hotel; handling collection actions for landlord; defending software company in patent infringement action; defending home builder in construction defect dispute; defending manufacturer in arbitration; defending sod harvester manufacturer in patent and copyright infringement lawsuit; representing copyright holders in infringement actions; and defending direct marketing company in trade secret action. Amounts in dispute range from \$50,000 to \$10 million.

His intellectual property experience includes handling intellectual property litigation, including patent infringement, patent invalidity, trade secret misappropriation, copyright infringement, trademark and trade dress infringement and domain name disputes; conducting domestic and international trademark prosecution, including filing trademark applications and responding to trademark office actions to secure issuance of trademarks; representing trademark owners and challengers in opposition and cancellation proceedings before the Trademark Trial and Appeal Board; negotiating and assessing intellectual property licensing, non-disclosure, and assignment agreements; conducting intellectual property due diligence and audits in support of mergers and acquisitions; developing and drafting patent opinions for both non-infringement and invalidity of competitor's patents involving mechanical patents; and prosecuting utility and design patent applications.

Contact information

801.536.6993

tbsmith@parsonsbehle.com

Capabilities

Business & Commercial Litigation
 Copyright Litigation
 Copyrights
 Intellectual Property Licensing
 TTAB Proceedings
 Patent Litigation
 Patent Prosecution
 Federal Circuit Appeals
 Appeals
 USPTO Proceedings
 Technology
 Technology, Licensing & Intellectual
 Property Transactions
 Trade Secret Litigation
 Trademark Prosecution
 Trademark and Trade Dress Litigation
 Construction Litigation
 Direct Sales and Multi-Level
 Marketing

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Utah

U.S. Dist. Court, Dist. of Utah

U.S. Patent & Trademark Office

U.S. Court of Appeals, 9th Circuit

U.S. Court of Appeals, 10th Circuit

U.S. Court of Appeals, Federal Circuit

Various federal district courts (pro hac vice)

Mr. Smith has corporate counseling experience, including negotiating, drafting and reviewing client and other corporate contracts including contracts involving complex technology, licensing and assignments; counseling company executives and other internal stakeholders on a variety of legal and business issues regarding appropriate risk and reward tradeoffs; reviewing and advising on non-compete agreements of prospective employees; and negotiating dispute settlements.

Significant experience in all aspects of civil litigation from case intake through final disposition at trial in disputes throughout the U.S. Handle heavy caseload at a busy litigation practice, managing multiple cases at different stages in active litigation at one time.

His case management and development skills include: initial client interviews, researching potential claims, developing case strategy, and advising clients on likely outcomes, including managing reasonable client expectations throughout the litigation. Discovery experience includes taking expert and fact witness depositions, propounding and responding to discovery requests and managing document review teams.

He has significant writing experience including: drafting contracts and licenses, appeals, pleadings, and motions practice, such as summary judgment motions, motions to dismiss, motions to compel and motions for injunctive relief.

Oral advocacy and courtroom experience includes: arguing to Federal Circuit in favor of affirming denial of motion for preliminary injunction, arguing appeals before the Tenth Circuit Court of Appeals, arguing appeals before the Utah Supreme Court, examining expert and fact witnesses in patent infringement cases, leading negotiations in mediations and settlement conferences, and first-chairing trials and arbitrations.

Experience

Green United LLC v. Blue Castle Holding, LLC, et al., Case No. 170401844

Obtained dismissal with prejudice of all claims against defendants and an award of attorney fees against plaintiff.

Mellivo, LLC v. Suhre Enterprises, LLC, 220901168

Obtained preliminary injunction for client, allowing them to recover equipment held by defendant

Daniel Patty, et al. v. Heiden Orthopedics, LLC, et al., 220400143

Defeated plaintiffs' motion for preliminary injunction

Accomplishments

Professional

AV-Preeminent Rating, Martindale-Hubbell

Utah Legal Elite, Utah Business Magazine, 2008-present, various

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Law Clerk, Honorable Thomas G. Nelson, Ninth Circuit Court of Appeals, Boise, Idaho, 1998-99

Academic

George Washington University Law School, Washington, D.C., Juris Doctor, 1998 - Order of the Coif - Editor, *The George Washington Law Review*

Troy University, Troy, Alabama, M.S. in International Relations, 1992

United States Naval Academy, Annapolis, Maryland, B. S. in Political Science, with Merit, 1990 - Commandant's List 1986-90

Associations

Professional

Aldon J. Anderson Inn of Court, President

Utah State Bar, Intellectual Property section, member

Utah State Bar, Litigation section, member

American Intellectual Property Law Association, member

Community

Lassonde Institute, University of Utah, office hours advisor

Highland Foundation, Salt Lake City, Utah (2009-Present), past chair

Foothill Baseball Association, Salt Lake City, Utah (2004-2020), past president, board member, and coach

Articles

"Author, Case Note, Court-Created Expansion of Pendent Appellate Jurisdiction," (1997)

Presentations

"Intellectual Property Law Basics," (2017)

Utah Valley University

"Trademarks: What You Need to Know," (2016)

Park City Chamber of Commerce

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