

# Fisher Broyles

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**Practice Areas:** Intellectual Property Litigation; Civil Pretrial & Trial Services; Trademark Prosecution; Trademark Trial & Appeal Board; Copyrights; Litigation & Risk Management; Franchising; Intellectual Property; Technology; Trade Secrets; Media & Communications Law; Licensing; Strategic IP Counseling; Internet & E-Commerce

**Bar Admissions:** Georgia; Louisiana; Mississippi

**Education:** Georgia State University, College of Law, J.D., Cum Laude (2000); Louisiana State University, B.A. in English (1990), B.A. in Journalism (1990), M.F.A. in English (1993)

**Experience:** King & Spalding LLP

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Tom's practice focuses on intellectual property and complex commercial litigation and counseling clients on intellectual property matters. Tom has litigated copyright, utility and design patent, trademark/trade dress, franchise and distribution, trade secret, media, and complex commercial matters nationwide in federal and state trial and appellate courts, including the U.S. Courts of Appeals for the Federal Circuit and Eleventh Circuit, and before the U.S. International Trade Commission. He has litigated copyright infringement cases involving a wide variety of works, including defending high-profile music industry clients. Tom has litigated patent cases involving a wide variety of technologies, including semiconductors, computer and mobile device software, telecommunications, office and manufacturing equipment, medical devices, and building materials. He also has litigated breach of contract, business torts, defamation, and media law disputes, and claims for injunctive relief in a variety of contexts.

Tom also assists clients with prosecution of trademark applications at the U.S. Patent and Trademark Office and World Intellectual Property Organization, and litigation of cancellation and opposition proceedings before the Trademark Trial and Appeals Board, as well as all facets of trademark portfolio protection and management. He has represented clients in connection with cybersquatting claims and domain name dispute resolution and obtained the transfer of domestic and international domain name registrations. Tom also counsels clients in connection with trademark and software licensing and

enforcement, negotiation and enforcement of franchise and distribution agreements, franchise system issues, and IP due diligence in connection with corporate transactions.

Tom has represented public and private companies, from Fortune 100 members to small startups, and large educational institutions. He also has devoted a substantial amount of his practice to public interest matters, including pro bono representation of numerous indigent clients in connection with habeas corpus claims and civil rights violations, partnering with organizations including the Southern Center for Human Rights and the Georgia Appellate Practice & Educational Resource Center. He successfully litigated claims in connection with the failure by Georgia prisons to treat inmates' serious mental health needs and to segregate juvenile inmates from some of Georgia's most violent adult inmates. Tom also was a member of a committee that drafted legislation to create the Georgia Early Learning Initiative, now known as Smart Start Georgia, which developed and implemented long-term plans to increase school readiness in Georgia.

### Representative Matters Include

- Obtaining early dismissal of copyright infringement claims against high-profile music producer.
- Obtaining favorable settlement, including client's acquisition of infringing mark, of trademark infringement claims by first-mover startup company against new-entrant direct competitor.
- Obtaining favorable settlement of design patent and trade dress infringement claims by global high-end design studio against foreign and U.S. infringer.
- Defeating claims of copyright infringement brought by large licensing organization against financial media company.
- Obtaining a non-infringement determination after trial at the ITC, affirmed by the full Commission, in a case involving mechanical and design patents.
- Defeating claims of theft of confidential information, breach of contract and fiduciary duties, and other torts brought in state court by a putative inventor against university-affiliated technology transfer entity and non-profit foundation.
- Defeating claims of infringement of a mechanical patent and for preliminary injunctive relief brought by the largest direct competitor of a private company that manufactures building materials.
- Defending one of the world's largest companies against claims of infringement of multiple patents involving wireless location technology, and obtaining rulings invalidating several patents on the basis of indefiniteness.

- Defeating claims of copyright infringement brought by large licensing organization against small travel business, and assisting travel business in enforcing its own rights against online competitors.
- Obtaining early, favorable settlement for Fortune 100 aerospace company of patent infringement claims involving flight data reporting technology.
- Assisting Fortune 100 beverage company in protecting trade secrets during federal criminal trial of employee for trade secret misappropriation.
- Representing Fortune 100 building supply and home goods retailer in trial and appellate court in patent infringement and breach of contract action brought by former supplier. Obtained judgment of non-infringement and invalidity, which was affirmed by the Federal Circuit, and judgment that the asserted contract was void and unenforceable.
- Advising franchisors on system creation and compliance issues, and representing franchisors and franchisees in disputes, in franchise and distribution systems in the fast food, casual dining, automobile and motorcycle, power equipment, heavy machinery, package delivery, and hotel industries.
- Representing university and affiliated athletic association in evaluating trademark portfolios, procuring federal trademark registrations, and licensing and enforcing trademark rights nationally and internationally, including in federal court litigation and Trademark Trial & Appeal Board and domain name resolution proceedings, and obtaining seizure of counterfeit goods by U.S. Customs and Border Protection.

### Publications (Legal)

- Media Law Resource Center annual surveys of Privacy and Related Law and Media Libel Law, Eleventh Circuit sections, 2000-2016
- Co-Author of bi-weekly to monthly "ITC Section 337 Update" newsletter summarizing notable events in International Trade Commission practice, 2013-2016
- "Use And Abuse Of Fed. R. Civ. P. 30(B)(6) Depositions," ICLE Complex Litigation Seminar, March 2005 (co-author)
- "Federal Court Refuses to Dismiss Libel Suit Against the Ramseys," Libel Defense Resource Center LibelLetter, March 2001
- "Evolving Conflict Between Standards for Employment Discrimination Liability and the Delegation of that Liability: Does Employment Liability Insurance Offer Appropriate Risk Transference?" University of Pennsylvania Journal of Labor and Employment Law, Vol. 3.3,

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Spring 2001 (lead article) (co-author with Joan T.A. Gabel, Nancy S. Mansfield, and Ellwood Oakley)

- “The Internet Gambling Prohibition Act of 1999: Congress Stacks the Deck Against Online Wagering but Deals in Traditional Gaming Industry High Rollers,” Georgia State University Law Review, July 2000

### Publications (Non-Legal)

- 1999 Supplement, Canadian Insurance Law, LOMA (1999)
- Intro to Insurance Company Accounting, LOMA (1998)
- Intro to Underwriting, Bankinsurance Training Council (1998)
- PrepPak for FLMI 301: Insurance Administration, LOMA (1997)
- Feature and news articles in Sports Trend Magazine, Auto Trim & Restyling News, City Fitness Magazine, LSU Magazine, the LSU Daily Reveille and theDelta Automotive Report

### Affiliations & Memberships

- State Bar of Georgia, Intellectual Property, Franchise & Distribution, and Technology sections
- Louisiana State Bar Association
- Mississippi Bar Association
- New Orleans Bar Association
- Bleckley Inn of Court, Pupil 1999-2000