

# Fisher Broyles

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**Practice Areas:** Intellectual Property; International; Litigation – Appellate; Litigation – Civil Pretrial and Trial Services; Litigation - Intellectual Property; Litigation & Risk Management; Mediation; Professional and Management Liability; Class Action Defense

**Bar Admissions:** Illinois; U.S. Supreme Court; U.S. Court of Appeals, 7<sup>th</sup> Circuit; U.S. Court of Appeals, 8<sup>th</sup> Circuit; U.S. District Court, N.D. Ill.; U.S. District Court, W.D. Wis.; U.S. District Court, E.D. Mich.; U.S. District Court, C.D. Ill.; U.S. District Court, N.D. Ind.

**Education:** University of Wisconsin Law School, cum laude, J.D. 1986; University of Wisconsin-Oshkosh, B.S. 1983

**Experience:** Jenner & Block; Schopf & Weiss LLP

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Brad Nelson is a highly experienced trial lawyer and litigator, with a focus on complex business and intellectual property litigation. Over the course of more than 30 years, Brad has served as lead counsel representing clients in major patent infringement, trademark, and trade secret litigation, as well as in a broad range of business disputes, including in the areas of financial services, banking, real estate, shareholder and stakeholder disputes, post-merger litigation and arbitration, bankruptcy, contract, fraud, insurance coverage, and professional liability including defense of legal and accounting malpractice claims. His clients have ranged from Fortune 100 and multi-national corporations to law firms, family-owned businesses, and individuals. Brad represents and counsels clients in all areas of dispute resolution, including internal or pre-suit investigations, litigation, trials, appeals, mediation, and arbitration. He has tried and won major cases in state and federal courts around the country, and is a member of the bar of the United States Supreme Court and several federal circuit and district courts.

Brad prides himself on making his clients' causes his own. He is a fierce advocate and seasoned trial lawyer, but understands that many business disputes are best resolved with a business solution. With hard work, creativity, and a keen understanding of legal and business issues, Brad strives to achieve his

clients' objectives, whether they involve winning at trial or on appeal, or finding resolution across the table or in mediation.

Some of his representative cases and published decisions include:

*Goss Int'l Americas, Inc. v. Graphic Mgt. Assoc., Inc.*, 2008 WL 2410426 (June 11, 2008, N.D. Ill.); 2010 WL 3720183 (Sept. 14, 2010, N.D. Ill.). Prevailed on Markman ruling and substantial summary judgment rulings in favor of our client in \$100 million infringement action involving newspaper collating systems and related post press equipment.

*Crawford Supply Group, Inc. v. Harris N. A. and North Shore Comm. Bank*, Case No. 09 L 4400 (Cir. Ct. Cook County, Ill.). Recovered multi-million dollar settlements from financial institutions on behalf of company and shareholders defrauded by their accountant and trustee.

*Coupled Products Corp. v. Nobel Automotive Mexico, LLC, et al.*, 2011 WL 4499344 (Sept. 27, 2011, W.D. La.); 2012 WL5288134 (Oct. 23, 2012, W.D. La.). Represented automotive OEM in patent infringement suit against competitor and car maker. Case settled favorably following court ruling dismissing all counterclaims with prejudice and favorable claim construction rulings.

*Barclays Bank N.A. v. Ritchie Capital Mgt.*, Case No. 08 L 12890 (Cir. Ct., Cook County, Ill.). Represented major hedge fund and related entities in defense of \$800 million suit by secured lender. Case settled favorably through workout.

*Goss Int'l Corp. v. Tokyo Kikai Seisakusho, Ltd.*, 547 U.S. 1180 (2006); 434 F. 3d 1081 (8th Cir. 2006); 2004 WL 1234130 (N.D. Iowa June 2, 2004); 321 F. Supp. 2d 1039 (N.D. Iowa 2004). Tried the first case ever under the Antidumping Act of 1916, which prohibits foreign companies from selling products in the U.S. at unfairly low prices. Won a three-week jury trial resulting in a \$32 million verdict, plus \$4.1 million in fees and costs for our client. Prevailed on appeal before the Eighth Circuit. Successfully opposed the defendants' petitions for rehearing and rehearing en banc before Eighth Circuit and petition for writ of certiorari to U.S. Supreme Court. Later obtained international antisuit injunction barring defendants from pursuing clawback remedies in Japan. 435 F. Supp. 2d 919 (N.D. Iowa 2006), rev'd 491 F. 3d 355 (8th Cir. 2007), cert. denied 2008 WL 2484755 (2008).

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*Heatlink LLC v. Heatlink Group, Inc.*, Case No. 06 C 2592 (N.D. Ill.). Represented U.S. distributor of radiant heating systems in trademark and Lanham Act suit against Canadian joint venturer. Case settled favorably following entry of TRO in our client's favor.

*Duthie v. Matria Healthcare, Inc.*, 535 F. Supp. 2d 909 (N.D. Ill. 2008), aff'd, 540 F.3d 533 (7th Cir. 2008). Obtained injunction on behalf of former officers and shareholders precluding arbitration of claims arising from \$450 million merger. In related Delaware Chancery proceeding, successfully obtained indemnification and advancement of all attorneys' fees from former company, and obtained complete release of all claims against former officers and shareholders.

*Goss Int'l Americas, Inc. v. K&M Newspaper Services, Inc.*, 469 F. Supp. 2d 547 (N.D. Ill. 2006). Prevailed on Markman ruling construing patent in favor of our client in infringement action involving newspaper collating systems. Case settled on favorable terms following Markman ruling.

*Kalamazoo Realty Venture LP v. Blockbuster Entertainment Corp.* (D. Del). Won arbitration award on behalf of commercial landlord against guarantor of shopping center lease.

*Barman v. Marsh*, (C.D. Ill.). Won total defense verdict for landowners in suit by bankruptcy trustee to recover real property.

*Employers Ins. of Wausau v. Ehlco Liquidating Trust*, 708 N.E.2d 1122 (Ill.). Won Illinois Supreme Court appeal in favor of our client, Ehlco, on insurance coverage and estoppel claims in a large environmental coverage matter, overturning a line of unfavorable appellate decisions.

*Crawford Supply Co. v. Professional Plumbing, Inc.*, (Cir. Ct. Cook County). Won \$1.5 million jury verdict and judgment in breach of contract dispute arising from a long-term supply contract.

*Perlman v. Zell*, (N.D. Ill). Won jury verdict on RICO and related claims in suit regarding nationwide real estate partnership investments.

*In re Economy Lodging Systems, Inc.*, 205 B.R. 862 (N.D. Ohio). Successfully defeated plan of reorganization on behalf of major creditor. The bankruptcy filing was in partial response to the judgment we obtained against the debtor on behalf of our client based on the debtor's breach of a real estate sales agreement. See *Fofi Hotel Co., Inc. v. Davfra Corp.*, 846 F. Supp. 1345 (N.D. Ill.).

### Presentations & Publications

Brad is a frequent author and speaker on a broad range of topics, including patent and other intellectual property issues, trial techniques, international litigation, and financial and accounting issues facing corporate clients. Representative presentations and publications include

- “Best Efforts and Commercially Reasonable Efforts in M&A Agreements” Strafford Webinar (Oct. 2016)
- Tips for Responding to Patent Trolls ABA Business Torts Litigation Journal (Winter 2015)
- Patent Trolls: Can You Sue Them for Suing or Threatening to Sue You? ABA Intellectual Property Litigation Newsletter (Fall 2014)
- Business Torts: A Practical Guide to Litigation Co-Editor, ABA First Chair Press (2014) Co-edited book published by ABA, as a guide for the litigation and trial of business torts cases.
- Breach of Ethics or Law? Fiduciaries in the Crosshairs Illinois CPA Society 2012 Fraud Conference (Chicago, Sept. 20, 2012) Presented CLE/CPE program for Illinois accountants and attorneys regarding fiduciary duties and recent developments and litigation trends.
- Ethics In Patent Litigation: How To Avoid Making Your Conduct An Issue In The Case Illinois CLE (June 23, 2011) Presented CLE program for Illinois attorneys on select ethical issues in patent litigation.
- Conflicts in the Law of Foreign Antisuit Injunctions American Bar Association, Corporate Counsel Committee Meeting (Feb. 2009); ABA Annual Meeting ( Aug. 2009). Review of recent decisions on availability of foreign anti-suit injunctions and analysis of circuit splits regarding standards for issuing such injunctions.
- It’s a Small World After All: Litigating With Foreign Companies in the U.S. American Bar Association -- Corporate Counsel Committee Meeting, (Feb. 2009); ABA Annual Meeting, (Aug. 2009) Moderator and speaker on panel presentation regarding foreign e-discovery, antisuit injunctions, blocking statutes, and enforcement of U.S. judgments abroad.
- Effective Development and Presentation of Expert Patent Testimony Law Seminars International - Chicago (September 2007) Presented mock cross-examination of patent expert.
- Deepening Insolvency – Contours of a New Tort ABA Section of Litigation Committee on Corporate Counsel CLE Seminar - Amelia Island, FL (February 2007); ABA Litigation Section Annual Meeting - San Francisco, CA (August 2007)

- E-Discovery Tools - Panel Presentation Chicago (March 2007) Presented at the E-Discovery in the Federal Courts 2007 Seminar.
- Model Jury Instructions, Business Torts Litigation (4th ed.), Editor American Bar Association (2005) Updated model jury instructions for use in business torts cases.
- E-Discovery, The Burdens and Benefits: How to Advise Your Clients ABA Litigation Section Business Torts Committee Regional Seminar, Chicago. (May 2005)
- Extreme Makeover - Preparing Your Client for Trial ABA Litigation Section Business Torts Committee Meeting - New York (April 2005); Chicago Bar Association Federal Practice Committee Meeting - Chicago (May 2005)
- David v. Goliath: Hostile Venues and Unpopular Clients Scottsdale, AZ (April 2004) Presented at the ABA Litigation Section Annual Meeting.
- Using Mock Juries Wisely Houston, TX (April 2003) Practical Advice on Tactics and Expectations. Presented at the ABA Litigation Section Annual Meeting.
- Foreign Courts' Exercise of Jurisdiction Over U.S.-Based Websites Chicago, IL (Nov. 2002) Presented to the Chicago Bar Association.
- Internet Commerce Gets Tricky Overseas: Free Speech? Maybe Not. 12 Bus. L. Today 47 (Sept./Oct. 2002)
- The Legal Impact of Problem Accounting: Identification and Response Chicago and Lake Forest, IL (Sept. 2002) Presented to American Corporate Counsel Association.
- Why Jury Research Works: From Mock Trial to Mach Trial LaQuinta, CA (Feb. 2001) Presented at the ABA Corporate Counsel Mid-Year Meeting.
- The Selection and Use of Expert Witnesses Chicago Bar Association (July 2000) Presented to the Young Lawyers Division of the Chicago Bar Association.

### Affiliations

- American Bar Association
  - Intellectual Property Litigation Committee
  - Business Torts and Unfair Competition Committee
- American Intellectual Property Law Association
- Intellectual Property Law Association of Chicago.