



Brian P. Johnson

Partner

Washington, DC

TEL 202.721.5413

bjohnson@axinn.com

PRACTICE AREAS

Intellectual Property

ITC Section 337

Patents

Technology

EDUCATION

JD – The George Washington
University Law School (2009)

BS, Computer Engineering – University
of Wisconsin, Madison (2005)

ADMISSIONS

District of Columbia

Virginia

U.S. Patent and Trademark Office

PROFILE

With over 15 years of experience, Brian Johnson is a first chair IP litigation attorney representing clients before the International Trade Commission (ITC) and district courts. He represents clients in litigations involving a wide range of technologies. Brian has had the privilege of representing many of the largest telecommunications companies in the world on many high-stakes competitor disputes. Brian has also argued multiple appeals before the Federal Circuit.

Brian's experience includes litigation covering intellectual property infringement as well as allegations related to fair, reasonable and nondiscriminatory (FRAND) patent license terms, where he has tried cases involving ETSI cellular standards, IEEE Wi-Fi standards, and JEDEC memory standards. He has also appeared in dozens of ITC investigations and district court suits where he counselled clients with litigation strategy, including the interplay of multijurisdictional disputes and advocacy with U.S. Customs.

Prior to joining Axinn, Brian was a partner at a prominent law firm in Washington, DC. Before entering private practice, Brian served as a patent examiner at the U.S. Patent and Trademark Office. He received his JD from The George Washington University Law School and his BS from the University of Wisconsin, Madison.

PROFESSIONAL ACTIVITIES

- District of Columbia Bar Association
- Virginia Bar Association

- Patent Bar Association

EXPERIENCE

Standard Essential Patent Litigation

- *Certain Memory Modules and Components Thereof*. Represented Respondent SK Hynix in an ITC investigation involving memory modules and JEDEC standards. The Initial Determination found no violation the Commission did not review.
- *Certain Gaming and Entertainment Consoles*. Represented Respondent Microsoft in an investigation involving IEEE Wi-Fi standards and other technology related to gaming consoles. The Commission found no violation.
- *Certain 3G Mobile Handsets*. Represented Respondent Microsoft and Nokia in a series of investigations involving infringement allegations and ETSI cellular standards. The Commission found no violation for all respondents in all investigations.
- Microsoft district court FRAND litigations. Represented Microsoft in multiple rate setting litigations in WDVA and D. Del against multiple SEP holders. One litigation resulted in one of the first rate setting opinions ever issued, where Judge Robert determined Wi-Fi FRAND rates very favorable to Microsoft. This decision was affirmed by the Ninth Circuit.
- Huawei district court FRAND litigation. Represented Huawei in a patent infringement and rate setting litigation against a competitor that included infringement allegations of twenty-two patents. Settled.
- ASUS district court FRAND litigation. Represented ASUS in a rate setting litigation in NDCA. The case settled after the SEP holder's Motion for Summary Judgment on the Sherman Act claim was denied, which would have led to one of the few times this issue has gone to trial.

Video Technology

- *Broadcom ITC/District Court/PTAB*. Represented Broadcom in each of an ITC investigation, district court litigation, and numerous IPRs against a major automotive company. The Commission found Broadcom's patent valid and infringed and the PTAB confirmed the same infringed claims were also valid. After conducting multiple

oral arguments, the Federal Circuit affirmed the finding of the PTAB and did not disturb the contested infringement findings at the ITC. The litigation settled before the district court was to be lifted.

Consumer Products / e-Commerce

- *Certain Mobile Devices, Associated Software, and Components Thereof*. Represented Complainant Microsoft in a competitor ITC investigation against Motorola. Brian was lead on the patent that resulted in one of the few exclusion orders issued in the “cell phone wars.”
- *Certain Casual Footwear and Packaging Thereof*. Represented Respondent Hobby Lobby against allegations of trade dress infringement at the ITC acting as first chair. The Initial Determination found Hobby Lobby did not infringe and that the trade dress was invalid, resulting in a finding of no violation. The Commission affirmed no violation based on non-infringement.
- *Certain Self-Balancing Scooters*. Represented Alibaba in an ITC investigation involving electronic scooter technology. Deciding an issue of first impression in the Alibaba’s favor, the Initial Determination found no violation.
- *Certain Devices for Mobile Data Communications*. Represented Apple in an ITC investigation against Openwave involving mobile devices. Settled.
- *Certain Insulated Beverage Containers*. Represented Alibaba in an ITC investigation involving cooler technology. Settled.
- *Certain Electronic Devices Having a Retractable USB Connector*. Represented Huawei in an ITC investigation involving USB memory sticks. Settled.

Security

- *Certain Acousto-Magnetic Electric Article Surveillance Systems*. Represented Complainants Tyco and Sensormatic in an ITC investigation involving security tags. Settled on the eve of trial with all respondents agreeing to a consent order.
- Represented Apple in a district court litigation against ContentGuard in a litigation involving data security in EDTX. Apple was found not to infringe any of the asserted patents.

Fiber Optics

- Represented Respondent Panduit in a pair of ancillary proceedings at the ITC, acting as co-first chair. The advisory proceeding was won on summary determination and, after a full enforcement proceeding trial, the Staff sided with our client on all contested issues. The case settled before an Initial Determination was issued.

**Includes matters handled prior to joining Axinn*

HONORS

- *Bloomberg Law's* "Top 40 Under 40" (2023)
- Recognized in *Am Law* "Litigator of the Week" column for representation of Hobby Lobby