

## Benjamin J. Hodges

Principal

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Ben is a registered patent attorney and focuses on complex litigation and technology counseling.

Ben's litigation experience includes managing complex civil litigation cases of all types, including post grant IP matters, patent, unfair competition, trademark and trade dress, copyright, property disputes, and breach of contract cases. He also has experience in cases involving preliminary injunctive relief.

His technology practice involves litigation and also counseling small and large companies on all types issues impacting their companies, including guiding IP prosecution efforts. He has counseled individuals and companies in services industries, manufacturing, telecommunications, software, food and consumables, petroleum refining, internet and media, and transportation.

Ben also maintains an active pro bono practice. His pro bono work includes counseling and litigation for veterans denied disability benefits, prisoners, home associations, housing disputes, and is part of the pro bono counsel for the Rare Genomics Institute.

### Education

J.D., University of Missouri School of Law, 2009

- *Missouri Environmental Law and Policy*, Associate Member
- David Ray Trial Advocacy Award recipient

### Services

Litigation  
Antitrust & Consumer Protection  
Beauty & Wellness  
Cannabis  
Commercial & IP Transactions  
Copyright & Trademark  
Food & Beverage  
Hospitality, Travel & Tourism  
Intellectual Property Litigation  
IP & Technology  
Patent Litigation  
Privacy, Cybersecurity & Data Protection  
Sports, Arts & Entertainment

### Admissions

Washington  
U.S. Patent and Trademark Office  
U.S. District Court, Western District of Washington  
U.S. District Court, Southern District of Illinois  
U.S. District Court, Eastern District of Missouri

- Roscoe Anderson Award for Excellence in Advocacy recipient

B.A., Washington University in St. Louis, 2004

## Honors & Recognition

Foster Pepper Pro Bono Attorney of the Year, 2017

Pro Bono Award, Federal Bar Association, Western District of Washington, 2017

Award of Merit, Bar Association of Metropolitan St. Louis, 2014

Legal Services of Eastern Missouri John R. Essner Young Lawyer of the Year, 2011

U.S. District Court, Western District of Missouri

U.S. Court of Appeals for the 9th Circuit

U.S. Court of Appeals for the Federal Circuit

U.S. Court of Appeals for Veterans Claims

U.S. Supreme Court

## Professional Activities

American Bar Association

- Young Lawyers Division, IP Committee, Past Chair and Vice Chair
- Section of Intellectual Property Law, Member
- Model Jury Instruction Committee, Member

American Intellectual Property Law Association (AIPLA), Member

King County Bar Association

- Young Lawyers Division, Board of Trustees
- CLE Committee, Member

Legal Services of Eastern Missouri, Volunteer Attorney

Missouri Bar Leadership Academy, 2013-2014

Rare Genomics Institute, Volunteer Attorney

Seattle IP Inn of Court, Past Member

St. Louis Bar Foundation

- Fellow, 2011-Present
- Board of Directors, 2011-2014

The Theodore McMillian American Inn of Court, Member, 2013-2014

Washington Lawyers for the Arts, Board Member

Washington State Bar Association

- Washington Young Lawyers Committee, Board Member

Young Lawyers Division of the Bar Association of Metropolitan St. Louis

- Chair, 2014

## Community Activities

Techbridge Girls, Pacific Northwest Advisory Council, Board Member

St. Louis Bar Foundation

- Fellow, 2011-Present
- Board of Directors, 2011-2014

## News

Benjamin Hodges Weighs in on the Impact of Patent Trolling Has on Washington State's Small and Family-Owned Businesses in *Seattle Times* article  
*The Seattle Times*, 5.13.21

Benjamin Hodges Discusses the Implications of Patent Trolls in *U.S. News & World Report*  
*U.S. News & World Report*, 2.23.21

Foster Garvey Files Opposition to Cert Petition  
*Foster Garvey Newsroom*, 1.14.20

Increasing Civic Engagement Through Technology Platforms  
*Foster Garvey Newsroom*, 19

Securing the Release of Child Unlawfully Detained by ICE in Adult Detention Facility  
*Foster Garvey Newsroom*, 19

Asylum Hopes Held up by "Remain in Mexico" Program  
*Foster Garvey Newsroom*, 19

Assisting Veterans Previously Denied Benefits  
*Foster Garvey Newsroom*, 11.19

Foster Garvey Attorneys Provide Legal Advice for the Arts  
*Foster Garvey Newsroom*, 11.20.19

Veterans Previously Denied Disability Benefits Get a Second Chance  
*Foster Garvey Newsroom*, 11.11.19

Foster Garvey Welcomes Renton High School Students for Day of Learning  
*Foster Garvey Newsroom*, 10.24.19

Foster Garvey Pro Bono Team Helps Secure Release of Wrongfully Detained Youth  
*Foster Garvey Newsroom*, 9.30.19

## Speaking Engagements

"Obtaining Evidence from Electronic Devices in Washington," National Business Institute Online Seminar

Speaking Engagement  
Online, 7.11.22

"Copyright Year in Review," Art Law Institute 2021

Speaking Engagement  
Virtual Event, 11.23.21

"Copyright Year in Review," Washington Lawyers for the Arts

Speaking Engagement  
Virtual Event, 10.28.20

"The Future of Work," World Affairs Council

Event  
Seattle, WA, 2.6.20

"Protection of Artistic Features | Copyright, Trade Dress, and Design Patent," Washington

Lawyers for the Arts  
Speaking Engagement  
Seattle, WA, 1.29.20

"IP Basics for Filmmakers," Washington Lawyers for the Arts

Speaking Engagement  
4.22.19

"IP and Video Games Issues: Copyrights, Trademarks and Patents," American Bar Association

Young Lawyers Division  
Panel Discussion  
Webinar, 4.26.18

## Legal Alerts

SCOTUS Grants Cert in Public Access Copyright Case

7.10.19

Failure of Three Factor Test Spells End to Joint Authorship Claim

7.1.19

U.S. Supreme Court Invalidates Law Against Offensive Trademarks  
6.24.19

Washington's Latest Efforts on Data Security and Privacy  
6.11.19

U.S. Supreme Court Clarifies Application of Trademarks in Bankruptcy Proceedings  
5.24.19

IP Case Review: *Trading Technologies International v. IBG, Interactive Brokers*  
5.6.19

## Publications

Protecting the Future of Cannabis Biotechnology  
*Cannabis Business Executive*, 5.6.20

Trademark Bar Cheers for 'Good News in Gloomy Time' with High Court's Romag Fasteners Holding  
*IPWatchdog*, 4.24.20

The Impact of COVID-19 on IP Contracts  
*IPWatchdog*, 4.13.20

Foster Garvey COVID-19 Resource Center  
3.18.20

Net Neutrality: How Recent Developments Could Affect Content Companies and Other IP-Intensive Businesses  
*IPWatchdog*, 3.16.20

The Varying Laws Governing Facial Recognition Technology  
*IPWatchdog*, 1.30.20

Federal Circuit's *Dodocase Vr* Decision Provides a Roadmap for Limiting AIA Proceedings  
*IPWatchdog*, 1.7.20

Final Briefs Filed with SCOTUS in *Romag Fasteners* Case on Trademark Infringement Damages  
*IPWatchdog*, 12.9.19

Looking Ahead to 2017: Where Will Patent Venue be Appropriate?  
*American Bar Association*, 2.7.17

The Rise of Rule 12 Motions  
*American Bar Association*, 11.2.16

Be Original in Briefs to Advance Your Argument and Avoid Copyright Infringement  
*American Bar Association Young Lawyers Division, Intellectual Property Law Committee  
Newsletter*, 10.16

Defend Trade Secrets Act (DTSA) Signed Into Law: Federal Law Offers Greater Protections And  
New Obligations For Employers  
5.13.16

Courts to Police Direct Infringement Pleadings More Strictly  
*Law360*, 11.20.15

## Experience

### Representative Litigation: Intellectual Property

Represented a personal transportation device company against patent infringement claims in District Court and the ITC. Settled after proving non-infringement with a consent decree that allowed the company to keep selling.

Represented a personal transportation device company asserting claims of patent infringement on a utility patent and multiple design patents. Defeated an early IPR claim at the Patent Trial and Appeal Board before institution.

Represented local fishing manufacturing company against claims of patent infringement and unfair competition, as well as in obtaining insurance coverage. Settled after mediation with the client continuing its manufacturing and sales unchanged.

Represented large national association bringing pre-emptive IPR and District Court claims on behalf of its members attacked by a Patent Assertion Entity. Resulted in a settlement protecting all members of the national association.

Represented marketing company accused of unfair competition and both design and utility patent infringement. Cases resolved after mediation through settlement and advised on successful redesign of product to allow client to continue selling.

Represented regional grocery chain accused of copyright infringement. Negotiated a successful settlement and license to let client continue using the same marketing.

Represented local and national financial analysts accused of infringing copyrights in financial planning materials. Settled after mediation.

Represented manufacturer and national retailer of bedding accused of copyright infringement. Settled after mediation and a detailed apportionment analysis.

Represented coffee company in a trademark licensing arbitration. Won on all affirmative claims, defeated all claims against the coffee company, and received a grant of attorneys' fees in addition to other affirmative relief.

Represented local fishing product manufacturer against a large national manufacturer infringing their trademark. Settled after having the national company stop using the client's

mark.

Represented local internet company asserting and defending claims at the Trademark Trial and Appeal Board and in District Court involving trademark infringement, cybersquatting, and libel claims.

Represented company in a trademark dispute and successfully defeated attempts to compel arbitration in District Court and the 9th Circuit.

### **Representative Litigation: Commercial**

Represented software company in a licensing dispute arbitration to a favorable settlement between licensee and licensor.

Represented large transportation company asserting multiple claims including breach of fiduciary duty and breach of contract around a marketing contract to a favorable settlement.

Represented local company regarding breach of contract and ownership claims of water rights.

Represented a personal transportation device company against claims of breach of contract for a technology license agreement.

Represented local fishing manufacturing company against claims of patent infringement and unfair competition. Also assisted client in obtaining insurance coverage. Settled after mediation with the client continuing its manufacturing and sales unchanged.

Represented local outdoor company against a company committing unfair competition and various libelous statements as well as accusing the company of patent and trade dress infringement. Reached an early settlement allowing the client to continue its sales and ending negative statements about the client.

Represented marketing company accused of unfair competition and both design and utility patent infringement. Cases resolved after mediation through settlement and advised on successful redesign of product to allow client to continue selling.

### **Technology Transactions**

Represented local smart technology company in portfolio acquisition due diligence for a portfolio and acquisition of over \$40 Million.

Represented multiple companies in technology acquisition licensing transactions ranging from records management, SaaS, video conference, and product sales software.

Represent local artist in negotiating copyright ownership of greeting card designs.

Represent local technology companies guiding their patent and trademark prosecution efforts

Represent local architecture company in patent prosecution and IP disputes.

**Representative Pro Bono Matters**

Represented multiple veterans pursuing claims of errors in denials of disability benefits at the Court of Veterans Claims. All cases to date have resulted in favorable remand back to the VA.

Represented local housing group when accused of trademark infringement for a local festival.

Counsel artists and arts organizations in issues related to protecting their intellectual property.

Represented renters in actions against landlords in eviction cases.