



## Anthony J. Dain, Partner

Practice Areas	Litigation, Intellectual Property Restructuring and Bankruptcy Complex Commercial Litigation White Collar Criminal Defense Asia-Pacific Cross-Border Privacy and Cybersecurity
Admissions	California United States Patent and Trademark Office Supreme Court of the United States
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### Professional Summary

Anthony J. Dain has represented clients in more than 100 jury trials, successfully representing international companies, financial institutions, federal agencies, tribal governments, public utilities, businesses and individuals. Anthony's practice focuses on litigation in the areas of intellectual property, financial institutions, white-collar crime, environmental, commercial litigation and Native American issues, as well as alternative dispute resolution, mediation and arbitration. He has experience representing more than 100 matters before state and federal courts of appeal, and has 20 published appellate cases. Anthony is licensed to practice in all California Courts, Federal Courts, the Ninth and Federal Circuit Courts of Appeal, the U.S. Supreme Court, as well as U.S. Patent and Trademark Office.

### Representative Matters

- Obtained patent infringement verdict of \$13.5M, after a three week jury trial in the Central District of California, involving polyimide film used in the flexible printed circuit boards of mobile phones.

- Obtained \$2.2M verdict, after five day jury trial in the Central District of California, with findings of breach of fiduciary duty and conversion against the former CEO of a plastics recycling company.
- Obtained high seven-figure patent infringement settlement on the eve of trial in Delaware District Court for the company of the inventor of a groundbreaking all-optical switch for data transmission.
- Obtained mid seven figure verdict in first phase of multi-phase, consolidated trial, representing ambulatory surgical centers against several insurance coverers. After 17 day trial, and Defendants writ to the Court of Appeal the Appellate Court issued a published decision affirming the lower courts findings and judgment.
- Obtained patent infringement verdict of \$5.5M, plus 10% royalty on behalf of manufacturer of polymer fibers, against importer and distributor of infringing products. After a two week jury trial in the Northern District of Texas, the jury returned a verdict finding the patents infringed and valid and rejecting defendants' claims of unenforceability.
- Obtained \$2.9M judgment for distributor of automobile after-market products, after 4 week trial and appeal in trademark, false advertising and false patent marking case.
- Obtained \$1.73M toxic tort verdict after 5 week jury trial. Plaintiffs, owners of a family business, were exposed to pathogens in treated sewage water after defendants' water district and contractors misconnected an irrigation line to a tap water line.
- Represented Federal Regulator in Director and Officer investigation of failed financial institution, negotiating settlement of \$7.9M.
- Defended ice delivery company in patent infringement preliminary injunction in Arizona District Court. In this "bet the company" evidentiary hearing, the trial court construed the claims and found the company's machine did not infringe the patent.
- Obtained jury verdict on behalf of plaintiff in malicious prosecution lawsuit after two week trial in Malibu, CA.
- Defended wireless telephone carrier in Eastern District of Virginia ("rocket docket"). Plaintiff was requesting \$170M for alleged infringement of wireless modem adaptors. After three week jury trial, jury rendered verdict of non-infringement and invalidity of the patent.
- Represented floor cleaning equipment manufacturer in defense of two week patent jury trial in Southern District of California. Patent claims currently rejected by USPTO following reexamination.
- Obtained judgment of acquittal in jury trial on criminal charges brought against German exporter.



- Obtained defense jury verdict on behalf of CPR Savers and First Aid Supplies in suit brought by Express Companies, Inc., alleging theft of trade secrets and interference with Express' contract with Yahoo.
- Defended a tribal development corporation in jury trial in Atlanta, GA, involving allegations of breach of contract.
- Obtained \$1.38M jury verdict on behalf of the historic US Grant Hotel against its former operator; also obtained verdict for US Grant Hotel against the cross-complaint of operator seeking \$5M for breach of contract.
- Multi-million dollar recovery for receiver of failed financial institutions against officers and directors, as well as banker's bond and directors and officers insurance carriers, for wrongful acts committed in commercial and multi-family residential lending.
- Defended vacuum equipment manufacturer in complex trade secret litigation in California Southern District Court. Case settled favorably on first day of trial, following successful rulings on in-limine motions.
- Represented bank executives in criminal and civil case, obtaining published decisions in both California Court of Appeals and Supreme Court on novel state and federal constitutional issues.
- Represented two energy utilities in Nox emission patent litigation in the Southern District of California obtaining damages and royalties in excess of \$1M and a royalty free license to use more than 60 US and foreign patents.
- Defended an institutional lender in CERCLA litigation using the Asset Conservation, Lender Liability and Deposit Insurance Protection Act.
- Defended Jan San Company in patent infringement law suit brought by industry leader. Following successful invalidation of the patent, obtained confidential settlement in counterclaim for anti-trust violation.
- Defended a public utility in solar energy patent litigation in the District Court of Arizona and the Central District of California - plaintiff claimed more than \$2.5B in worldwide damages.
- Represented a patent holder and its exclusive licensee in a jury trial in the Central District of California obtaining damages and a permanent injunction against the infringer - the infringer settled, post judgment, agreeing to pay several million dollars in past damages and future royalties.
- Obtained a defense verdict for a biotech company in trade dress and unfair competition litigation in



the Central District of California, involving the distribution of horizontal electrophoresis devices.

- Obtained a multi-million dollar settlement for an internet company involving issues of trademark and copyright infringement.

## Recognitions

- *The Best Lawyers in America*® 2020 Lawyer of the Year
- *The Best Lawyers in America*® 2016-present (Appellate Practice & Litigation-Patent)
- 2019 West Coast Top Rated Lawyers, ALM
- *San Diego Magazine* Top Lawyer, 2019 (Asia-Pacific Cross-Border)
- AmLaw Top Rated Lawyer in Intellectual Property Law, 2018
- Best Lawyers® 2017 (Appellate Practice), San Diego, CA
- Martindale-Hubbell® AV Preeminent Rating
- *San Diego Super Lawyers*® 2007-2019 (Intellectual Property Litigation)
- The State Bar of California Board Certified Appellate Specialist
- "Top Lawyers," *San Diego Magazine*, Appellate Law 2013
- "Top Lawyers," *San Diego Magazine*, Land Use and Zoning 2013
- "Top Lawyers," *San Diego Magazine*, 2013-present
- "Southern California Super Lawyers," *Super Lawyers Magazine*, Southern California 2014

## Community

- California State Bar Association – Appellate Court Committee
- Salute to Teachers, 2017-2018

## Education

- JD, University of San Diego Law School, 1981
- BS (Biology), University of California, San Diego, 1976



## **News Coverage**

- Cullen, Anne. "Antitrust Deal 'Breaches' Must Be Arbitrated: Realtor Group," Law360, January 23, 2019.

## **Seminars**

In the past, Tony has served as a feature speaker for the San Diego County Bar Association, the American Corporate Counsel Association and the California Computer Expo.