



Brian J. Kennedy, Attorney

Practice Areas Intellectual Property
Litigation, Intellectual Property
Litigation, Corporate and Commercial
Trade Secrets
Trademarks and Copyrights
Licensing
Appellate Law Services
Native American Law

Admissions California

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Professional Summary

Brian J. Kennedy is a Senior Associate who primarily focuses on intellectual property and complex business litigation. He is also experienced in intellectual property counseling.

Prior to joining Procopio, Mr. Kennedy was an extern to the Honorable Peter W. Bowie of the U.S. Bankruptcy Court for the Southern District of California, a legal intern in the Office of the General Counsel at the University of San Diego, and a law clerk in the Civil Division of the U.S. Attorney's Office for the Southern District of California.

During law school, Mr. Kennedy was Editor-in-Chief of the San Diego International Law Journal, and was the graduating recipient of the Outstanding Clinic Intern Award for his work at the school's Entrepreneurship Clinic. He is also a member of Phi Delta Phi International Legal Fraternity and received a CALL award for obtaining the highest grade in his Civil Procedure II class.

Representative Matters

- 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.

- Representing recycling manufacturer in a trademark dispute. Successfully argued and defeated plaintiff's application for an emergency temporary restraining order and motion for preliminary injunction which sought to shut down my client's recycling operations on the basis my client has superior trade name rights over the asserted trademark. Successfully obtained dismissal of plaintiff's entire complaint without leave to amend.
- Representing manufacturer of passive radio-frequency identification technology in the prosecution of a patent infringement case before the International Trade Commission and District of Delaware.
- 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. Previously obtained summary judgment against defendants' counterclaims for misappropriation of trade secret, breach of contract, tortious interference, and other state based tort claims.
- Represented neuromuscular stimulation device manufacturer in an action asserting claims of patent infringement, copyright infringement, misappropriation of trade secret, breach of contract, tortious interference, and other state based tort claims. Obtained favorable settlement on behalf of clients.
- Obtained \$4.2 million dollar attorney's fee award on behalf of a tribal entity against a former manager of the client's historic hotel based on the client's successful breach of fiduciary duty and conversion claims at trial. Defended the client's attorney's fee award on appeal before the California Court of Appeal, Fourth District who affirmed the fee award in its entirety.
- Obtained mid-seven figure verdict in first phase of multi-phase, consolidated trial, representing ambulatory surgical centers against several insurance carriers. Successfully defended the verdict on appeal before the California Court of Appeal, Fourth District, who affirmed the lower court's findings and judgment in its entirety in a published decision.
- Represented a tribe's wholly-owned California limited liability company in a personal injury case. Successfully obtained dismissal of entire action against client on demurrer, without leave to amend, because the asserted claims were barred by the statute of limitations.
- Defended a tribal corporation in a personal injury case. Obtained dismissal of all claims brought against a tribal corporation based on tribal sovereign immunity.
- Successfully defended an ambulatory surgical center against an appeal before the California Court of Appeal, Fourth District challenging the ambulatory surgical center's award of reasonable facility fees and pre-judgment interest.



- Represented an ambulatory surgical center in a case alleging various contract claims. Obtained dismissal of plaintiff's entire complaint on the basis that all asserted claims were barred by the applicable statute of limitations.
- Represented manufacturer in the prosecution of a patent infringement case in the District of Delaware and in the International Trade Commission involving passive radio-frequency identification technology used in the tolling industry. Obtained favorable settlement on behalf of client.
- 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.

Education

- JD, University of San Diego School of Law, *cum laude* (*San Diego International Law Journal* – Editor-in-Chief)
- MA, California State University, Fullerton
- BA, California State University, Fullerton, *cum laude*