



## Nicole Berkowitz Riccio\*

Shareholder

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Nicole Berkowitz Riccio focuses her practice in the areas of patent, trademark, copyright, trade secret, and unfair competition litigation.

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Ms. Riccio has a diverse practice assisting clients in various intellectual property litigation matters. She has substantial experience litigating patent, trademark, and copyright infringement disputes as well as unfair competition and trade secret matters. Ms. Riccio has also handled a wide range of complex commercial litigation and appellate matters.

Ms. Riccio litigates intellectual property disputes before district courts throughout the United States, as well as before the Trademark Trial and Appeal Board of the United States Patent and Trademark Office and the United States Copyright Office. Ms. Riccio also advises clients on the identification, protection, and enforcement of intellectual property rights and has expansive experience in drafting and negotiating intellectual property license agreements, assignments, and non-disclosure agreements.

Prior to joining Baker Donelson, Ms. Riccio clerked for the Honorable Jon Phipps McCalla, U.S. District Court for the Western District of Tennessee.

## Representative Matters

### Trade Secrets and Unfair Competition

- Obtained preliminary injunctive relief and favorable settlement on behalf of national lawn care company in trade secret and trademark infringement case involving theft of customer records and adoption of similar trademark after asset purchase in the United States District Court for the Western District of Tennessee.
- Successfully petitioned for injunctive relief on behalf of automotive service business in trade secret misappropriation case involving customer lists and proprietary financial data.
- Achieved favorable settlement on behalf of medical supply company in unfair competition matter after obtaining major victories on summary judgment and the exclusion of competitor's liability and damages experts in the United States District Court for the Southern District of Florida.
- Obtained injunctive relief and favorable settlement for broker-dealer firm in trade secret misappropriation and breach of contract case pending before FINRA.
- Assisted in achieving favorable settlement in group of cases against former licensee of consumer products chain involving breach of confidentiality, trademark and trade dress infringement, and false advertising in the United States District Court for the Western District of Tennessee and the United States District Court for the Northern District of Mississippi.
- Achieved a favorable settlement in a case involving theft of software trade secrets by a former vendor in the United States District Court for the Eastern District of Louisiana .
- Frequently provide guidance to clients on best practices for protecting and maintaining trade secrets.

### Trademark & Copyright

- Obtained injunctive relief and favorable settlement for casual dining franchisor in breach of contract and trademark infringement dispute with former franchisee.
- Assisted in achieving favorable settlement in complex litigation alleging violations of the Visual Artists Rights Act and constitutional violations.

- Successfully petitioned for permanent injunctive relief in trademark infringement dispute against competitor trucking company.
- Successfully enforced numerous trademarks and copyrights in disputes regarding counterfeit and imitation products sold on Amazon, Alibaba, and Etsy.
- Negotiated favorable settlements in numerous trademark infringement disputes on behalf of consumer product manufacturers, health care providers, property management companies, and businesses in the restaurant and hospitality industry.
- Represented trademark owner in federal court action involving trademark infringement claims for products sold on Amazon.
- Prosecuted and defended numerous trademark opposition actions before the Trademark Trial and Appeal Board.
- Manage and enforce trademark portfolios for multiple health care providers, consumer product manufacturers, financial services companies, and retail businesses.

### **Patent**

- Assisted in achieving favorable resolution in complex patent infringement case involving technology for vehicle monitoring and tracking in the United States District Court for the Eastern District of Texas.
- Assisted in negotiating favorable settlement in patent infringement case involving traffic control technology in the United States District Court for the Southern District of Florida.
- Successfully petitioned to invalidate seven patents for indefiniteness, leading to a favorable settlement, in a patent infringement case involving building products technology in the United States District Court for the District of Delaware.
- Represented client in a patent infringement case involving multiple design patents for electronic household appliances in the United States District Court for the Western District of Wisconsin.
- Successfully enforced utility patents for consumer electronics manufacturer through Amazon's Neutral Patent Evaluation Process.

### **Commercial Litigation**

- Successfully represented national real estate investment trust in arbitration proceedings in which plaintiff had sought more than \$75 million in damages for the alleged breach of contract and tortious interference with business relationships.
- Assisted in achieving favorable settlement of shareholder class action against a corporation's board of directors and officers, in which the plaintiffs alleged breaches of fiduciary duties in connection with multi-billion dollar merger agreement.
- Represented fast casual restaurant chain against shareholder class action alleging violations of federal securities law in connection with cash-out merger in U.S. District Court for the Eastern District of Tennessee.
- Assisted in achieving favorable settlement on behalf of national automotive service chain in complex breach of contract matter.
- Prevailed on motions to dismiss for lack of personal jurisdiction in two related cases in which plaintiffs sought to impose liability on parent company.
- Successfully opposed an award of attorney's fees following a disclosure-only settlement in shareholder class action in connection with a multi-billion-dollar acquisition in Maryland state court.
- Achieved dismissal of majority of claims and negotiated favorable settlement of suit alleging violations of the Tennessee Litigation Financing Consumer Protection Act against a litigation financier.

### **Appellate Litigation**

- Prevailed on a motion to dismiss and successfully argued for affirmance on appeal to the U.S. Court of Appeals for the Sixth Circuit in a case brought by a journalist alleging that a municipal policy violated her constitutional rights.
- Successfully petitioned the Tennessee Court of Appeals to overturn the trial court's denial partial summary judgment in an interpleader/breach of contract dispute.

- Represented amicus curiae in a landmark Tennessee Supreme Court case involving the statute of limitations in breach of contract actions.



## Professional Honors & Activities

- Listed in *Best Lawyers: Ones to Watch* in America™ for Intellectual Property Law (2022 – 2024)
- Selected to Mid-South Rising Stars in IP Law (2019 – 2023)
- Cabinet Member – Memphis Area Legal Services Campaign for Equal Justice, Young Lawyers Committee (2017 – 2020)
- Associate Member – Leo Bearman Sr. American Inn of Court (2017 – 2020)
- Dean's Leadership Award – Washington University School of Law (2015)



## Publications

- "Twitter's Recent Rebrand: A Guide to Keeping Your Trademark Rights Alive," republished November 2023, in *The Trademark Lawyer* (August 2023)
- Co-author – "Right of Publicity Laws: Tennessee," Thomson Reuters Practical Law (November 2022)
- Co-author – "Trademark Laws: Tennessee," Thomson Reuters Practical Law (August 2022)
- Co-author – "Leveraging Intellectual Property to Mitigate Web Spoofing, Phishing Attacks, and other Deliberate Acts of Confusion on the Internet" (July 2021)
- Co-author – "Class Action Lawsuits Attack Banks' Implementation of CARES Act Lending Program," republished in *Banking Exchange* (April 22, 2020)
- Co-author – "Trademark Laws: Tennessee," *Westlaw* (January 2020)
- Co-author – "More States Step Up to the Plate With New Legislation to Address Student Athlete Compensation and the NCAA Passes the Ball to Congress," republished February 14, 2020, in *IAM Sports Litigation Alert* (January 2020)
- Co-author – "Amateurism for Assets: NCAA to Allow Student Athletes to 'Benefit' from Personal Intellectual Property," *IP Watchdog* (December 2019)
- Co-author – "Trading Amateurism for Assets: NCAA to Allow Student Athletes to 'Benefit' from Personal Intellectual Property" (November 2019)
- Co-author – "Supreme Court Declines to Narrow On-Sale Bar," *IAM Weekly International Report* (February 2019)
- Co-author – "Supreme Court Moves Goalposts of the On-Sale Bar," *IAM Weekly International Report* (November 2018)
- Co-author – "Right of Publicity," *The Licensing Journal* (October 2018)
- Co-author – "Two Iconic Brands – Federer's Uncertain Hope to Obtain the RF Logo from Nike," *IAM Weekly International Report* (August 2018)
- Co-author – "Balance Between Brand Protection and Artistic Expression: Strengthening the First Amendment," *IAM Weekly International Report* (June 2018)
- Co-author – "Supreme Court Rules PTAB Proceedings Constitutional," *IAM Weekly International Report* (May 2018)
- Co-author – "Federal Circuit Continues to Narrow Appellate Jurisdiction," *IAM Weekly International Report* (March 2018)
- Co-author – "Artificial Intelligence: State of the Industry and Ethical Issues," *Tennessee Bar Journal*, Volume 54, No. 3 (March 2018)
- Co-author – "Can the Bankruptcy Model Salvage *Inter Partes* Review?," *IAM Weekly International Report* (November 2017)
- "Strict Liability for Individuals? The Impact of 3D Printing on Products Liability Law," *Washington University Law Review* (2015)



## Speaking Engagements

- "So Many States, So Many Remedies: A comparison of the many state's nationwide injunctions and the possible need for a federal right-of-publicity statute," Virtual CLE (October 2020)
- "Baker Donelson Women's Initiative Wrap It Up CLE Event" (December 2019)
- "Legal Issues Confronting Inside Counsel" (November 2019)
- "Ethics for Young Lawyers," Memphis Bar Association Young Lawyers' Division (December 2017)



## Education

- Washington University School of Law, J.D., 2015, summa cum laude
  - *Washington University Law Review*, Managing Editor
- Vanderbilt University, B.A. in Economics, 2012



## Admissions

- Tennessee, 2016
- Missouri, 2015
- United States District Courts for the Eastern, Middle, and Western Districts of Tennessee
- United States District Court for the Eastern District of Missouri
- United States Court of Appeals for the Sixth Circuit

\* Baker Donelson professional admitted to the practice of law in Tennessee and Missouri, but not in Florida.