

## Adam Gershenson

Partner



agershenson@cooley.com Issues and Appeals

Commercial Litigation

+1 617 937 2379

Intellectual Property Litigation

Trade Secret Litigation and Dispute Counseling

Artificial Intelligence

Boston

Employee Mobility, Competitive Hiring and Unfair Competition

Adam is co-chair of Cooley's issues & appeals practice group, a leader of the firm's artificial intelligence (AI) task force, and a trusted adviser on national and international trade secret disputes. He has successfully led high-stakes trade secret litigations in courts across the United States. Plus, Adam has designed programs to protect the most valuable confidential information of some of the world's most sophisticated companies. At trial and on appeal, he is an established first-chair lawyer who helps clients win bet-the-company cases, and he has been recognized multiple times in The American Lawyer's Litigator of the Week column.

Adam has secured victories in bet-the-company matters involving AI, unfair competition, breaches of contract, false advertising, patents, trademarks and trade secrets. In his appellate practice, he has represented clients at the US Supreme Court, multiple state supreme courts, the International Trade Commission and circuit courts, including the Federal Circuit. In addition, Adam leads the thought leadership team on the Cooley AI task force, and he is co-chair of the American Bar Association Intellectual Property Law Section's Joint Task Force on Model Trade Secret Practice.

Adam used to write stories for The New York Times – now he tells stories to judges and juries. He has used his writing background to draft dozens of winning briefs for trial and appellate courts, including the Supreme Court. Before entering private practice, Adam clerked for Judge Dorothy W. Nelson of the US Court of Appeals for the Ninth Circuit.

### Adam's representative cases include:

- Representing the National Association of Realtors in a Supreme Court case regarding multiple listing services (MLSs) for homebuyers and sellers
- Representing a medical device company in a \$700 million trade secret dispute
- Representing Pie Insurance in a district court victory and US Court of Appeals for the Fifth Circuit appeal concerning a \$300 million trade secret dispute
- Representing the US House of Representatives in cases across the US seeking to enjoin rollbacks of service at the US Postal Service prior to the 2020 presidential election
- Representing Senate Democrats in a Supreme Court defense of the Affordable Care Act to protect healthcare coverage for hundreds of millions of Americans
- Winning a major habeas victory based on the confrontation clause of the US Constitution, successfully achieving a US Court of Appeals for the Sixth Circuit habeas challenge establishing not only "the right to cross-examine" a witness, but also "the right to share with the jury the information the cross-examination reveals"

- Securing freedom to operate at Boston Logan International Airport for Turo, a peer-to-peer car-sharing company, in a case that reached the Massachusetts Supreme Judicial Court
- Representing Uber at trial and on appeal in a \$750 million dispute and obtaining sweeping victories on all claims at the district court and in the US Court of Appeals for the First Circuit, earning recognition for the appellate win in *The American Lawyer's* Litigator of the Week column
- Representing CharityWatch in a Supreme Court case, *Americans for Prosperity Foundation v. Rodriguez*, to preserve regulations that compel the disclosure of information from major donors to public charities and to help donors make informed decisions
- Successfully defending a data storage unicorn in a dispute concerning allegations of trade secret theft, unfair competition and deceptive practices – *EMC v. Pure Storage*
- Entering a case after a court imposed a temporary restraining order and preliminary injunction, successfully arguing to have both orders dissolved and obtaining dismissal with prejudice – *National Fish & Seafood v. Tampa Bay Fisheries*
- Representing a plaintiff in a trade secret case, securing an injunction and protecting the plaintiff's confidential information from a competitor – *SimpliVity v. Bondranko*
- Representing a defendant in a trade secret and trademark case, defeating an injunction and ensuring the defendant's freedom to operate – *Profil v. Profil*
- Securing dismissal of a class action lawsuit alleging deceptive conduct by an internet marketer
- Earning a Supreme Court victory for inventors of a chemical compound behind a blockbuster pharmaceutical drug
- Prevailing at trial for a top manufacturer of clean energy technology in an inventorship dispute
- Winning dismissal of a patent infringement suit in the US District Court for the Eastern District of Texas for a top technology firm
- Winning dismissal of a trademark infringement suit for a prominent social media and microblogging site
- Garnering a highly favorable settlement of a Federal Trade Commission antitrust investigation for a Fortune 100 company
- Drafting an amicus brief regarding hate crimes convictions that helped secure victory for prominent civil rights organizations at the Massachusetts Supreme Judicial Court
- Earning victory at trial and at the Supreme Court to free five wrongly accused men from Guantanamo Bay prison
- Designing trade secret protocols to protect confidential information for high-growth and Fortune 100 companies
- Securing dismissal of a purported class action for a car-sharing service

#### **Presentations**

- Panelist, "The Federal Trade Secrets Act in Action: Legal Developments and How to Protect Your Company's Critical Trade Secrets," Event, Palo Alto, June 6, 2018
- Panelist, "The 2016 Federal Trade Secrets Act: What You Need to Know," Event, Palo Alto, June 3, 2016

#### **Representative publications**

InsideCounsel

- Co-author, "Watch Out: The Federal Trade Secrets Act Provides for Ex Parte Seizure," June 3, 2016

- Co-author, “Trade Secret Bill Could Redefine Protection for Company Secrets,” April 28, 2016
- Co-author, “Are They Going to Federalize Trade Secrets Law?” March 30, 2016

#### Harvard Law Review

- Author, “Public Employee Speech” (in “Leading Cases – *Garcetti v. Ceballos*”), vol. 120, no. 1, p. 273, November 2006
- Author, “Constitutional Law – Establishment Clause – Middle District of Pennsylvania Holds That the Teaching of Intelligent Design Violates the Establishment Clause – *Kitzmiller v. Dover Area School District*, 400 F. Supp. 2d 707 (M.D. Pa. 2005),” vol. 119, no. 7, p. 2268, May 2006

#### The New York Times

- Author, “Amputee Hopes for New Limbs, and a Return to His Family in Ecuador,” February 22, 1999
- Author, “A Hard Life to the Hardwoods: An Ex-Inmate Tries to Justify His Reprieve,” February 2, 1997

## Education

Harvard Law School  
JD, 2007

Boston University  
MA, 2002

Columbia University  
BA, 1994

## Admissions & Credentials

Massachusetts

New York

## Court Admissions

US Supreme Court

US Court of Appeals for the First Circuit

US Court of Appeals for the Second Circuit

US Court of Appeals for the Fifth Circuit

US Court of Appeals for the Sixth Circuit

US Court of Appeals for the Seventh Circuit

US Court of Appeals for the Ninth Circuit

US Court of Appeals for the Eleventh Circuit

US Court of Appeals for the District of Columbia Circuit

US District Court for the District of Massachusetts

## Rankings & Accolades

Chambers USA: Litigation: General Commercial – Massachusetts (2023)

Legal 500: Trade Secrets (Litigation and Non-contentious Matters)

## Memberships & Affiliations

American Bar Association Joint Task Force on Model Trade Secret Practice Cochair

American Bar Association Trade Secrets and Interferences with Contracts Committee Voting Member

Sedona Conference, Trade Secrets Working Group

American Intellectual Property Law Association

Intellectual Property Owners Association

Boston Bar Association