

# Daniel Harris Brean

Assistant Professor of Law  
The University of Akron School of Law

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## OVERVIEW

I am a professor of property and intellectual property law. My research focuses on patent remedies, emerging technologies, and industrial design. I am also an accomplished patent litigator, having frequently appeared and argued before many U.S. district courts and the U.S. Court of Appeals for the Federal Circuit (where I previously served as a law clerk). I am a former shareholder at The Webb Law Firm, an intellectual property boutique, where I remain of counsel to advise and assist in patent litigation matters.

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## FACULTY POSITIONS

### **The University of Akron School of Law, Akron, OH**

*Assistant Professor of Law* (8/2016 – Present)

- COURSES: Property; Patent Law & Policy; Patent Office Litigation; International Intellectual Property Law; Licensing Intellectual Property; 1L Honors Seminar (co-instructor)
- COMMITTEES: Faculty Appointments; Curriculum; Dean Search; Alumni & Student Affairs
- ACTIVITIES: Coach for Giles Rich Patent Moot Court teams; Law Review student note advisor; Intellectual Property Advisory Council member (*ex officio*)

### **The University of Pittsburgh School of Law, Pittsburgh, PA**

*Adjunct Professor of Law* (1/2014 – 5/2016)

- COURSES: Patent Law (S14, F14, F15), Advanced Topics in Patent Law (S15, S16)

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## PUBLICATIONS

### **Law Reviews and Journals** (available at <http://ssrn.com/author=1359847>)

*Grading Patent Remedies: Dependent Claims and Relative Infringement*,

84 BROOKLYN L. REV. \_\_ (forthcoming 2019)

*Patent Enforcement in Cyberterritories*, 40 CARDOZO L. REV. \_\_ (forthcoming 2019)

*Business Methods, Technology, and Discrimination*, 2018 MICH. ST. L. REV. 307 (2018)

*Casting Aspersions in Patent Trials*, 79 U. PITT. L. REV. 1 (2018) (w/ Bryan Clark)

*Pro Se Patent Appeals at the Federal Circuit*, 21 STAN. TECH. L. REV. 1 (2017)

*Private Technology (Foreword)*, 16 PGH J. TECH. L. & POL'Y 1 (2016)

*Patenting Physibles: A Fresh Perspective for Claiming 3d-Printable Products*,

55 SANTA CLARA L. REV. 837 (2015)

*Ending Unreasonable Royalties: Why Nominal Damages are Adequate to Compensate Patent Assertion Entities for Infringement*, 39 VERMONT L. REV. 867 (2015)

*Will the "Nexus" Requirement of Apple v. Samsung Preclude Injunctive Relief in the Majority of Patent Cases?: Echoes of the Entire Market Value Rule*, 51 SAN DIEGO L. REV. 153 (2014)

*Asserting Patents to Combat Infringement Via 3D Printing: It's No "Use,"*

23 FORDHAM INTELL. PROP. MEDIA & ENT. L.J. 771 (2013)

*Overcoming the "Impossible Issue" of Nonobviousness in Design Patents*,

99 KY. L.J. 419 (2011) (w/ Janice Mueller)

*Enough is Enough: Time to Eliminate Design Patents and Rely on Copyright and Trademark Protection for Product Designs*, 16 TEX. INTELL. PROP. L.J. 325 (2008)

*Keeping Time Machines and Teleporters in the Public Domain: Fiction as Prior Art for Patent Examination*, 7 PGH J. TECH. L. & POL'Y 8 (2007)

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**PUBLICATIONS****Book Chapters**

*Design Protection*, Section 6B of Understanding Intellectual Property Law,  
Donald S. Chisum et al., (LexisNexis 3d ed. 2015)

*Intellectual Property Protection for Designs*, Design and Design Thinking: Essentials,  
Product Development and Management Association (John Wiley & Sons 2015)

*Design Protection*, Section 6B of Understanding Intellectual Property Law,  
Donald S. Chisum et al., (LexisNexis 2d ed. 2011)

**Periodical Contributions**

*Alice and TRIPS Compliance*, Patently-O (November 30, 2017)

*TC Heartland v. Kraft Foods*, ABA Supreme Court Preview (March 20, 2017) (w/ Camilla Hrdy)

*Unreasonable Royalties: Patent Infringement and the Requirement that Damages be  
Compensatory*, Delaware Lawyer (Fall 2015)

*A Brief History of Unreasonable Royalties*, Law360 (July 21, 2014)

*Tech Startups: Get Smart About Patent Litigation*, TechBurgher,  
Pittsburgh Technology Council (March 24, 2014)

*Has the Patent Troll Finally Taken its Toll?*, TEQ Magazine,  
Pittsburgh Technology Council (June 7, 2013)

*Benefits of a Coordinated Joint Defense in Patent Cases*,  
Law360 (November 27, 2012) (w/ Lee Cheng)

*The New "Nexus" Injunction Standard*, The Legal Intelligencer (October 9, 2012)

*Getting "Good Marks" for your Trademark Practices*, At Issue,  
Pennsylvania Bar Association (Spring 2011)

*Five Guidelines for a Happy Patenting Experience*, TEQ Magazine, Pittsburgh Technology  
Council (April 18, 2010)

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**PROFESSIONAL  
EXPERIENCE****The Webb Law Firm**, Pittsburgh, PA

*Of Counsel* (7/2016 – present)

- Brief and argue appeals in the Federal Circuit
- Consult on other patent litigation matters

*Shareholder (Partner)* (1/2016 – 6/2016)

- Established and implemented strategies for patent litigation matters
- Led firm's appellate practice, briefed and argued Federal Circuit appeals
- Managed and maintained intellectual property portfolios

*Senior Associate* (1/2013 – 12/2015)

- Managed patent litigation in several technology sectors through trial and appeal
- Briefed and argued various issues for IP cases in courts throughout the United States
- Facilitated written discovery and production, took and defended depositions
- Identified and coordinated with expert witnesses, assisted in expert reports
- Counseled clients regarding intellectual property protection, risk, and enforcement
- Negotiated license and settlement agreements
- Handled patent prosecution and inter partes review proceedings

*Associate* (9/2008 – 5/2011; 7/2012 – 12/2012)

- Briefed and argued claim construction, case dispositive, and evidentiary issues
- Coordinated written discovery requests/responses, document production, depositions
- Drafted and prosecuted patent applications, reexaminations, and related appeals
- Conducted validity and infringement analyses for products and services
- Composed license and nondisclosure agreements, assisted with due diligence

*Patent Agent* (5/2006 – 8/2006; 5/2007 – 8/2007)

- Drafted and prosecuted patent applications, performed trademark searches

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JUDICIAL  
CLERKSHIP

**The United States Court of Appeals for the Federal Circuit**, Washington, DC  
*Law Clerk to the Honorable Jimmie V. Reyna* (6/2011 – 5/2012)

- Drafted opinions addressing various patent and non-patent issues
- Prepared bench memoranda for upcoming oral arguments
- Gave presentations and led discussions regarding active cases
- Reviewed, analyzed, and commented on opinions from other chambers
- Evaluated petitions for panel and en banc rehearing
- Oversaw and mentored judicial interns

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FEDERAL  
CIRCUIT  
APPEARANCES

*Puma SE & Puma North Am., Inc. v. Forever 21, Inc.*, No. 2017-2259  
*AdjustaCam, LLC v. Newegg Inc.*, 861 F.3d 1353 (Fed. Cir. 2017)  
*Advanced Ground Information Sys., Inc. v. Life360, Inc.*, 681 Fed. Appx. 975 (Fed. Cir. 2017)\*  
*TQP Development, LLC v. Newegg Inc.*, 677 Fed. Appx. 683 (Fed. Cir. 2017)\*  
*Becton, Dickinson & Co. v. Baxter Int'l Inc.*, 639 Fed. Appx. 652 (Fed. Cir. 2016)\*  
*Advanced Ground Information Sys., Inc. v. Life360, Inc.*, 830 F.3d 1341 (Fed. Cir. 2016)\*  
*Allied Erecting & Dismantling v. Genesis Attachments, LLC*, 825 F.3d 1373 (Fed. Cir. 2016)\*  
*Wonderland Nursery Goods Co. v. Thorley Indus. LLC*, 644 Fed. Appx. 1011 (Fed. Cir. 2016)\*  
*Pragmatus Telecom, LLC v. Newegg Inc.*, 625 Fed. Appx. 528 (Fed. Cir. 2016)  
*Macrosolve, Inc. v. GEICO & Newegg Inc.*, 637 Fed. Appx. 591 (Fed. Cir. 2015)\*  
*SFA Systems, LLC v. Newegg Inc.*, 793 F.3d 1344 (Fed. Cir. 2015)  
*Wonderland Nursery Goods Co. v. Thorley Indus. LLC*, 601 Fed. Appx. 991 (Fed. Cir. 2015)\*  
*AdjustaCam, LLC v. Newegg Inc.*, 626 Fed. Appx. 987 (Fed. Cir. 2015)  
*In re Newegg Inc.*, No. 15-142 (Fed. Cir. 2015)  
*Alcatel-Lucent USA v. Overstock.com & Newegg Inc.*, 505 Fed. Appx. 957 (Fed. Cir. 2013)  
*Soverain Software, LLC v. Newegg Inc.*, 705 F.3d 1333 (Fed. Cir. 2013)

Clients in bold; \* = argued

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SPEAKING  
ENGAGEMENTS

**Presentations & Lectures**

*Dependent Patent Claims & Lesser-Included Infringement*, Patent-Tort Workshop, Texas A&M University School of Law, Fort Worth, TX (June 16, 2018)  
*Patent Enforcement in Cyberterritories*, Works-in-Progress IP Colloquium, Case Western Law School, Cleveland, OH (February 16, 2018)  
*Lexmark, Software, and the Sharing Economy*, Cleveland IP Law Association, Akron, OH (February 8, 2018)  
*Patent Enforcement in Cyberterritories*, Three Rivers IP Colloquium, Pitt Law School, Pittsburgh, PA (January 26, 2018)  
*Are Computer-Implemented Business Methods “Fields of Technology” Under TRIPS?*, IP Scholars Conference, Cardozo Law School, New York, NY (August 11, 2017)  
*Protecting Your Ideas*, Summit Art Space, Artist as Entrepreneur Institute, Akron, OH (July 19, 2017)  
*CASTING ASPERSIONS IN PATENT TRIALS*, Duquesne University School of Law, Pittsburgh, PA (March 27, 2017)  
*CASTING ASPERSIONS IN PATENT TRIALS*, The George Washington University Law School, IP Speaker Series, Washington, DC (February 7, 2017)  
*CASTING ASPERSIONS IN PATENT TRIALS*, Junior Intellectual Property Scholars Association, Moritz College of Law, The Ohio State University, Columbus, OH (January 20, 2017)

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**SPEAKING  
ENGAGEMENTS**

*3D Printing and the Next Wave of Digital Infringement*, Cincinnati Intellectual Property Law Association, Cincinnati, OH (May 12, 2015)

*Topsy-Turvy Patent Claiming and Enforcement Issues in a 3D-Printed World*, International Trademark Association 3D Printing Conference, New York, NY (March 10, 2015)

*How to Get Caught Stealing Trade Secrets Without Really Trying*, Q. Todd Dickinson IP Inn of Court, U.S. District Court for the Western District of Pennsylvania (November 17, 2014)

*Home Fabrication and the Future: Best Practices for Designers of 3D-Printed Products*, GSMI 3D Printing and Additive Manufacturing Summit, Pittsburgh, PA (September 17, 2014)

*Supreme Court IP Update*, U.S. District Court for the Western District of Pennsylvania, Patent Pilot Program Seminar, Pittsburgh IP Law Association (June 27, 2014)

*Federal Circuit Case Law Update*, U.S. District Court for the Western District of Pennsylvania, Patent Pilot Program Seminar, Pittsburgh IP Law Association (March 14, 2014)

*How the New “Nexus” Standard from Apple v. Samsung Will Make Injunctions Difficult to Obtain*, Pennsylvania Bar Institute, Philadelphia, PA (April 25, 2013)

*Overcoming the “Impossible Issue” of Nonobviousness in Design Patents*, Pennsylvania Bar Institute, Intellectual Property Law Symposium, Philadelphia, PA (March 31, 2011)

*Intellectual Property Basics for Product Designs*, Industrial Designers Society of America, Western Pennsylvania Chapter Innovation Series Event, Pittsburgh, PA (August 18, 2010)

**Panels & Symposia**

*Professionalism & Technology in the Public Good*, The University of Akron School of Law, Akron, OH (April 16, 2018)

*Navigating the Post-Alice Landscape*, Akron Law Symposium on Intellectual Property Law and Policy, Akron OH (March 19, 2018)

*Judicial Review of the PTAB’s Screening and Adjudicative Powers*, The University of Akron School of Law, Akron, OH (September 14, 2017)

*3D Printing: Aftermarkets and FDA Regulation*, Akron Law Symposium on Intellectual Property Law and Policy, Akron OH (March 20, 2017)

*Protecting Innovation in the 3D Printing World*, U.S. Patent and Trademark Office, 3D Printing Symposium, Alexandria, VA (June 28, 2016)

*The Wild West of Patent Litigation: Fee Shifting in the Wake of Octane Fitness*, ALM In-House Counsel CLE Seminar, Pittsburgh, PA (September 29, 2015)

*What Product Managers Need to Know About IP Protection*, The Everyday Innovator, [www.productinnovationeducators.com](http://www.productinnovationeducators.com) (September 28, 2015)

*Collision Course: Design Patents and the Convergence of Existing Intellectual Property Regimes*, University of Pennsylvania School of Law, PIPG Symposium (March 19, 2015)

*Multi-Defendant Litigation Involving Non-Practicing Entities*, U.S. District Court for the Western District of Pennsylvania, Patent Pilot Program Seminar, Pittsburgh Intellectual Property Law Association (July 12, 2012)

*Design Patent Litigation: Issues in Apple v. Samsung*, Intellectual Property Law Owners Association, IP Chat Channel Webinar (June 7, 2012)

*The Future of Industrial Design Protection in the United States, Europe, and Beyond*, The University of Pittsburgh School of Law, Pittsburgh, PA (February 26, 2009)

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## EDUCATION

### **The University of Pittsburgh School of Law, Pittsburgh, PA**

*Juris Doctor, Intellectual Property & Technology Certificate (5/2008)*

- HONORS: *Cum Laude*  
Faculty Award for Excellence in Legal Scholarship  
ABA-BNA Intellectual Property Law Award
- ACTIVITIES: Lead Articles Editor, *Pittsburgh Journal of Technology Law & Policy*  
Teaching Assistant, Legal Analysis and Writing

### **Carnegie Mellon University, Pittsburgh, PA**

*Bachelor of Science, Physics (5/2005)*

- HONORS: High Honors Dean's List, 2003-04
- ACTIVITIES: Teaching Assistant, Physics, Carnegie Mellon Action Project  
Guitar Studio Performance Series

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## LICENSURES

*Attorney at Law, Supreme Court of Pennsylvania, 2008*

## & ADMISSIONS

*Patent Agent, United States Patent & Trademark Office, 2006*

United States Supreme Court, 2016

United States Court of Appeals for the Federal Circuit, 2010

United States Court of Appeals for the Fifth Circuit, 2014

United States District Court for the Western District of Pennsylvania, 2008

United States District Court for the Eastern District of Texas, 2012

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## ASSOCIATIONS

Pittsburgh Intellectual Property Law Association

Allegheny County Bar Association

Q. Todd Dickinson Intellectual Property American Inn of Court (former)

American Intellectual Property Law Association (former)