

Contact

# Nolan M. Goldberg

**Partner**

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Nolan M. Goldberg is a partner in the Litigation Department, a member of the Patent Law practice, and co-head of both the Data Privacy and Cybersecurity Litigation Group and the Firm's Technology Strategy Committee. His practice focuses on technology-centric litigation, arbitrations (including international proceedings), regulatory investigations at both federal and state levels, privileged investigations and strategic counseling. Nolan handles a broad spectrum of disputes, including cybersecurity, privacy, patent and commercial matters. His deep technological expertise allows him to develop innovative defenses and strategies while enhancing the storytelling essential to successful dispute resolution.

Nolan is a registered patent attorney before the U.S. Patent & Trademark Office, and an International Association of Privacy Professionals (IAPP) Certified Information Privacy Professional, United States (US CIPP) and Certified Information Privacy Technologist (US CIPT).

**Cybersecurity**

Nolan's electrical engineering background, combined with a litigation and risk management focus, allows him to guide companies through all phases of cybersecurity incident response, strategic planning, litigation and regulatory investigations. Acting as a bridge between the technical and legal teams, he defends

clients in litigations, arbitrations and regulatory investigations before agencies such as the Federal Communications Commission (FCC), Federal Trade Commission (FTC), the Securities Exchange Commission (SEC), New York State Department of Financial Service (NYS DFS), Massachusetts Division of Banks, and before all 50 State's Attorneys Generals' offices, including multi-state investigations.

Nolan has also led investigations into vendor data breaches, particularly those involving claims of privilege to avoid contractual obligations, and conducted cybersecurity diligence for financial transactions. Additionally, he frequently assists companies in privileged assessments, including dual-purpose evaluations used for both legal analysis and operational decision-making.

**Commercial Disputes**

Nolan advises companies on commercial disputes, particularly those involving technology-related issues, such as hosted software agreements, outsourcing and managed services agreements, software and technology development agreements and joint venture dissolutions. When these disputes cannot be amicably resolved, he has successfully litigated these cases in state and federal courts as well as in arbitrations, including international proceedings.

**Intellectual Property**

Nolan has experience in intellectual property matters, including patent and trade secret litigations and negotiations, primarily in cases involving computer and network-related technologies. His litigation work has covered a broad range of technologies, including cybersecurity, hosted software, telecommunications, computer networking, security hardware and software, microprocessors, voice-over Internet protocol ("VoIP"), automative tools, barcode scanners, financial business methods and software – such as securities settlement, fail management and trade execution and reporting software – data compression, handheld computers, pharmaceuticals, cardiac electro-stimulatory devices and prosthetics.

He has also assisted in evaluating patents for inclusion in patent pools involving large consumer electronics and entertainment companies concerning CD and DVD technologies.

### Computer Forensics and Electronic Discovery

Nolan is often called upon to develop e-discovery strategies across various litigations, with a particular focus on selecting appropriate tools, developing proportionate discovery plans, navigating cross-border electronic discovery, managing the overall burden and cost of the electronic discovery process, and obtaining often overlooked electronic evidence, including computer forensics. He also assists clients to develop and implement information management programs to minimize costs, mitigate risks, meet compliance obligations and streamline e-discovery obligations.

### Thought Leadership

Nolan has authored numerous articles and presented on emerging issues and trends in both technology and law. He has been called upon to comment on various media outlets, including *Business Week, IPlaw360, IT Business Edge, CIO.com, Forbes* and *The National Law Journal*.

As co-head of the Firm's Technology Strategy Committee, Nolan has developed expertise in Generative Artificial Intelligence Technologies, particularly in leveraging AI to enhance the practice of law.

Prior to practicing law, Nolan was a computer specialist at Underwriters Laboratories (UL).

## Matters

### Nolan's exemplary public cyber-related matters include:

- Representing T-Mobile in connection with cyber-security litigation brought by the Washington Attorney General.
- Representing telecommunications company in connection with a data breach impacting 75 million consumers and related litigations and investigations.

- Representing telecommunications company in connection with a vendor data breach involving 15 million consumers, and related litigations and investigations.
- Represented SilkRoad Technology in connection with a series of cyber-attacks and defended Silkroad in a lawsuit brought by a suspect in the incidents. The case was successfully settled after the Court agreed that the plaintiff, the suspected hacker, had intentionally spoliated evidence prior to bringing suit. Postle v. Silkroad Tech., Inc., 2019 WL 692944, at **1, 7 (D.N.H. Feb. 19, 2019)
- Representing an entity in connection with multiple hacks of its e-mail environment by a (likely) Russian APT.
- Representing an entity in connection with a hack (likely) by a Chinese APT.
- Representing an expert witness consulting firm in connection with the exposure of certain information that is subject to litigation protective orders.
- Represented a telecommunications company in a breach of an adversarial law firm that had received confidential information in litigation that was impacted in a breach.

## Other representative litigation matters include:

- *Definitive Holdings, LLC v. Powerteq LLC.* Representing Powerteq in a patent infringement action filed against it relating to engine tuning technologies.
- *British Telecommunications PLC v. Palo Alto.* Representing British Telecommunications (BT) in a patent infringement action filed against Fortinet involving multiple cyber-security related-patents.
- *British Telecommunications PLC v. Fortinet Inc.* Representing British Telecommunications (BT) in a patent infringement action filed against Fortinet involving multiple cyber-security related-patents.
- Represents T-Mobile in a series of investigations by the FCC and multiple State Attorneys General relating to location information.

- Represented an entity in an investigation by NYS DFS relating to consumer credit.
- Represents Tech Mahindra in an international arbitration concerning unpaid invoices for outsourcing services, theft of trade secrets, and poaching, amongst other issues.
- Represented Silkroad Technology in terminating and unwinding a software development agreement.
- Represented T-Mobile in connection with the dissolution of a reseller agreement and related commercial relationships.
- *British Telecommunications PLC v. Valve Corp.* (D. Del.) Representing British Telecommunications (BT) in a patent infringement action filed against Valve, an American video game developer and digital distribution company, for infringement of four U.S. patents owned by BT.
- *British Telecommunications PLC v. Google, Inc., C.A.* (D. Del.) Represented British Telecommunications in a patent infringement action directed against Google's pervasive infringement of British Telecommunications patents relating to navigation (Google Maps), location-based services, bandwidth management, and access to personalized services and content.
- *Papyrus Technology Corporation v. New York Stock Exchange LLC* (S.D.N.Y.) Co-defended the New York Stock Exchange in a patent infringement action asserted by Papyrus Technology Corporation. A *Markman* hearing was conducted in December of 2007, which resulted in a favorable *Markman* ruling in September of 2008. Subsequently obtained summary judgment of invalidity of the last two patents remaining before the district court in the aftermath of the Markman ruling, which was affirmed by the Federal Circuit.
- *Realtime Data LLC D/B/A/ IXO v. CME Group et al.* (S.D. N.Y.) Representing NYSE Euronext, NYSE Arca, Inc., NYSE Amex, LLC, Securities Industry Automation Corporation, and the Options Price Reporting Authority in three related patent infringement suits which are directed to data compression. The court granted summary judgment in our clients' favor in September 2012, finding non-infringement of our clients' products on every claim.

- *Vraston v. Depositary Trust & Clearing Corporation* (S.D.N.Y.) Represented Depositary Trust & Clearing Corp. in a patent infringement lawsuit related to Exchange Traded Funds. The matter was dismissed for failure to state a claim following the Supreme Court's affirmance of the *Bilksi* decision.
- *BIAX Corp. v. Analog Devices, Inc.* (E.D. Tex.) Represented Analog Devices, a world leader in high-performance signal processing solutions, in the defense of a five-patent litigation relating to parallel processing in computers. After jury selection, the plaintiff dropped its demand and agreed to settle the case for a token payment and to arbitrate one of the patents if it survived reexamination. Following arbitration of the remaining patent, the arbitrator ruled in our client's favor, finding no infringement and awarded attorneys' fees to our client.
- *Abbott Laboratories v. ImClone Systems, Inc.* (D. MA) Represented ImClone in a patent infringement action directed to technology allegedly used to produce Erbitux®. The asserted patent was directed to the insertion of a vector into a cell to enhance production of an antibody of interest. The case was settled successfully shortly before hearings on motions for summary judgment.
- *Ossur North America, et al. v. Freedom Innovations, et al.* (C.D. Cal.) Obtained a favorable settlement in representing Ossur North America, et al., a leading manufacturer of prosthetic devices, in separately filed patent infringement and unfair competition actions respecting prosthetic feet.
- *Datalogic Scanning, Inc. v. Metrologic Instruments, Inc.*(D. Ore.) Representing Datalogic Scanning, Inc., one of two leading manufacturers of bar code scanners of the type commonly seen at checkouts, in a patent infringement action and a trade secret action, each filed against Metrologic, Inc. in Eugene, Oregon.
- *Rates Technology Inc. et al. v. Mitel Networks* (E.D.N.Y.) Successfully represented Mitel Networks, a provider of Internet Protocol telecommunications systems, in this patent infringement action. The case was settled.
- *Rates Technology, Inc. v. Shoretel, Inc.* (N.D. Cal.) Successfully represented Shoretel, Inc., a provider of Internet Protocol telecommunications systems, in this patent infringement case, which was settled.

## Practices

Intellectual Property, Litigation, Patent Law, Privacy & Cybersecurity

## Market Solutions

Regulatory & Compliance, Artificial Intelligence, Proskauer+Tech

## Education

Hofstra University School of Law, J.D.

With DistinctionIntellectual Property Honors Award Associate Editor, *The Hofstra Law Review*

Polytechnic Institute of New York, B.S.

(Electrical Engineering)

## Admissions & Qualifications

U.S. Patent and Trademark Office

New York

## Court Admissions

U.S. District Court, New York, Eastern District

U.S. District Court, New York, Southern District

## Awards & Recognition

New York Super Lawyers "Rising Stars," 2013-2015

The Legal 500 United States: Cyber Law (Incl. Data Protection & Privacy) 2023

The Legal 500 United States: Media, Technology & Telecoms: Data Protection and Privacy 2024