

## **Curriculum Vitae of Thomas P. Howard**

### **I. Education:**

Thomas Howard received his J.D. from Boston College in 1995, *Cum Laude*.

Thomas Howard received his B.A. from the University of California at Berkeley in 1992, *Phi Beta Kappa*.

### **II. Professional Activities**

Thomas Howard is a member of the American Bar Association, the Colorado Bar Association and the Boulder Bar Association.

Thomas P. Howard is the founder and managing member of Thomas P, Howard, LLC, a Colorado law practice that was formed in 2002 and that focuses on intellectual property litigation, commercial litigation, and intellectual property protection, including the filing of trademarks, copyrights and patents.

### **III. Bar and Court Admissions:**

Thomas Howard is an experienced trial lawyer and expert witness on matters involving business litigation, intellectual property litigation and damages. Attorney Howard has since 1996 handled intellectual property and complex commercial litigation matters nationwide, including copyright, trademark, trade secret and patent litigation, as well as breach of contract, interference with contract, breach of fiduciary duty, conspiracy, fraud and fraudulent transfer of assets.

Attorney Howard is a member of the bar of the State of Colorado, the U.S. District of Colorado, the 10th Circuit Court of Appeals, the State of Massachusetts, and the U.S. District of Massachusetts. He also is licensed to practice before the Patent and Trademark Office.

Attorney Howard has obtained admission *pro hac vice* at multiple federal courts around the country for litigation case-specific purposes, including but not limited to the U.S. District Courts for the Southern, Central and Northern Districts of California, the U.S. District Court for the District of Arizona, the U.S. District Court for the District of Utah, the U.S. District Court for the Eastern and Western Districts of Texas, the Southern District of New York, and the U.S. District Court for the Southern District of Ohio.

Attorney Howard also litigates administrative disputes regarding trademark rights before the Trademark Trial and Appeals Board, disputes over the ownership of domain names through WIPO, and import injury investigations before the US International Trade Commission.

### **IV. Practice History:**

Thomas Howard has been practicing since 1996 both in Colorado and nationwide.

**Expert testimony:** Attorney Howard has been retained as an expert on multiple occasions. Attorney Howard has written initial, rebuttal and reply expert reports, testified in expert depositions, and provided expert trial testimony. He has been retained as an expert in matters involving copyright, trade secret, breach of contract and professional negligence.

Attorney Howard has also retained, supervised, directed and revised the writing of dozens of experts in cases involving copyright, trademark, trade secret, contract, engineering, source code architecture, and other fields, has deposed multiple experts, and has cross-examined numerous experts at trial. He is extremely familiar with expert reports and expert testimony, as well as the rules of civil procedure pertaining to the same. Attorney Howard can analyze highly complex legal disputes and provide a detailed, expert analysis of the key strengths or flaws of a matter based on the facts and the law related to the same.

Finally, as a trial attorney with years of trial experience, attorney Howard speaks in court in a convincing and non-technical fashion that makes complex issues easy for laypeople and judges to understand.

### **Litigation experience**

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Thomas P. Howard has represented hundreds of corporate and individual clients in litigation proceedings over the course of his practice. Attorney Howard frequently represents parties with regards to complex commercial disputes involving intellectual property or business disputes. Often the disputes involve both commercial and intellectual property claims. A sampling of such matters includes the following:

- Attorney Howard recently litigated a matter, *Dawdy et al. v. Hiatt, et al.*, involving a business dispute in which one party in a 50-50 LLC locked the other out and took sole control over the business. Attorney Howard litigated a jury trial and obtained an award of \$767,000. Motions for interest, fees and costs totaling over \$200,000 are still pending.
- Attorney Howard recently litigated a matter over the course of four years in the US District Court for the District of Colorado, *Savant Homes, Inc. v. Tammie Wagner, et al.*, in which homeowners and their building contractors were sued by a large Colorado builder for their alleged copying and use of the builder's home designs. Attorney Howard obtained the dismissal of all of Plaintiffs' claims, the dismissal of the lawsuit and an award of attorneys' fees. The matter was appealed. The 10<sup>th</sup> Circuit Court of Appeals affirmed the decision of the U.S. District Court for the District of Colorado and again awarded attorneys' fees.
- In *MacCalmon Music, LLC v. Maurice Sklar Ministries*, Attorney Howard represented a musician whose copyrighted works were copied and incorporated into another work without license or permission. Attorney Howard successfully litigated a claim of copyright infringement and other claims and obtained a judgment of actual damages, statutory damages, legal fees and costs.
- In *Saturn Systems, Inc. v. Militare*, Attorney Howard represented Plaintiff Saturn Systems, Inc. at trial in the Denver District Court involving claims under the Colorado Uniform Trade Secrets Act as well as breach of contract. The claims arose from an employee's alleged theft of a client list and breach of a non-compete agreement. Saturn obtained damages and attorneys' fees, as well

as permanent injunctive relief. Defendant appealed, and Attorney Howard again represented Saturn Systems. The Colorado Court of Appeals upheld the district court decision and again awarded attorney's fees.

- In *Huntsman v. Soderbergh*, Attorney Howard successfully defended a software manufacturer in a trademark and copyright infringement matter involving claims filed by nine major studios and 16 Hollywood directors. All claims filed by the studios/directors against Attorney Howard's client were dismissed. This matter led directly to the congressional modification of both the Trademark Act and the Copyright Act.
- Attorney Howard represented a health professional at trial in a matter involving claims brought under the Colorado Uniform Trade Secrets Act, breach of contract and other claims. Attorney Howard obtained a court ruling in his client's favor on all claims and won damages, interest and costs.
- Attorney Howard went to trial in on a breach of contract, defamation, interference with contract and conspiracy matter involving counterclaims against attorney Howard's clients of over \$500,000. The court awarded attorney Howard's client's damages, dismissed all alleged counterclaims and awarded attorney's fees. The matter was appealed to the Colorado Court of Appeals. Thomas Howard again litigated this matter on appeal. The trial court ruling was upheld and legal fees awarded to Thomas Howard's clients for the appeal.
- Attorney Howard argued a jury trial involving claims of trespass, negligence and nuisance and obtained a jury verdict significantly larger than his own expert's damages analysis, plus interest and costs, on the behalf of his clients. All counterclaims for damages raised by defendants were denied. Subsequent to trial, Defendants moved for new trial or judgment notwithstanding the verdict based on the size of the verdict. That motion was denied on all counts.
- Attorney Howard went to trial in Arapahoe District Court on the behalf of a client and obtained a judgment for damages and attorneys' fees arising from breach of contract, unjust enrichment, and civil theft.
- Attorney Howard obtained a significant default judgment based on civil theft, check fraud and other claims. Attorney Howard briefed and conducted a hearing regarding the enforcement of the judgment and obtained treble damages totaling \$582,614 arising from check fraud and civil theft.
- Attorney Howard represented a plaintiff in a multiday trial involving a fraudulent transfer of assets, exemplary damages, and the piercing of a corporate veil. The case was settled immediately subsequent to Attorney Howard's presentation of the plaintiffs' case.
- Attorney Howard co-directed a successful and highly complex eleven month international insurance fraud investigation regarding a claim of over forty-five million dollars.
- Attorney Howard recently represented a company handling elderly care in a matter involving breach of contract and theft of trade secrets. After full discovery, depositions and denial of defendant's summary judgment, the case was successfully settled.
- Attorney Howard recently defended the City of Boulder in a trademark dispute before the Trademark Trial and Appeal Board. All claims were dismissed.

- Attorney Howard recently argued and obtained a preliminary then permanent injunction barring use of an infringing trademark on the behalf of a client in a trademark infringement matter involving the travel industry.
- Attorney Howard recently litigated a matter in the US District Court for the Central District of California in which the client was sued for copyright infringement, among other claims. Counterclaims were filed for trademark infringement and other claims. Plaintiff's claims were dismissed and attorney Howard's client awarded damages, legal fees and injunctive relief.
- Attorney Howard represented an online seller of medical equipment bringing claims of copyright infringement and trademark infringement against a party it alleged to be selling similar products online in a manner that infringed its copyrights and trademarks. The matter was brought to a successful settlement within five months of being filed.
- Attorney Howard successfully represented a client alleging trademark infringement against defendants using the clients' trademarks without license or permission on Internet advertising.
- Attorney Howard successfully represented a Colorado software manufacturer in a copyright infringement lawsuit involving the copying, distribution, and sale of the clients' source code.
- Attorney Howard successfully represented a client in a copyright infringement action involving a copyrighted technical drawing the copying of architectural works.
- Attorney Howard defended a client in a matter involving claims of theft of trade secrets and breach of fiduciary duty. The matter was successfully settled and dismissed after discovery.
- Attorney Howard recently litigated and successfully settled a four-year trade secret action that also involved breach of contract, breach of fiduciary duty, and multiple other claims involving competing entities in the health industry.
- Attorney Howard represented a tax resolution company in a limited liability company membership dispute involving claims of breach of the operating agreement, breach of fiduciary duty, conversion, theft of trade secrets, and other claims. Attorney Howard obtained an ex-parte search warrant followed by a permanent TRO barring the use or transfer of company data to one of the members.