

David J. Ball

Partner

david.ball@bracewell.com

NEW YORK

+1.212.508.6133



David Ball is a litigator who represents clients in high-stakes commercial disputes, international arbitration, intellectual property and restructuring matters. David's practice focuses on complex products and commercial arrangements across a wide range of industries, and he litigates cases concerning detailed technical subject matter across sectors, including technology, financial services and energy. He has litigated disputes through trial and appeal in federal and state courts across the country, in domestic and international arbitration, and at the International Trade Commission.

David's commercial disputes practice includes litigating cases regarding financial services and financial products contracts, fiduciary duty claims, energy-related contracts and regulatory matters, medical and drug device licensing and co-development issues and electronic and mechanical technology. David's international arbitration practice – which frequently intersects with his intellectual property experience – includes representing companies as claimant and respondent under all manner of arbitration rules.

David's intellectual property litigation practice (patent, trademark, trade secret, copyright and IP theft), involves trials, appeals, license drafting, IP royalty audits and related disputes. He has experience litigating offensive and defensive patent infringement matters across varied technologies in federal district courts and before the International Trade Commission, and he assists clients in contentious, in- and out-of-court licensing disputes. David utilizes his litigation experience in such matters to draft IP agreements, patent licenses and joint collaboration arrangements involving the transfer and development of intellectual property rights.

David's restructuring practice involves representing debtors and creditors in bankruptcy litigation. He is called upon in bankruptcy disputes because of his

Industries

[Finance](#)

[Technology](#)

Practices

[Data Security & Privacy](#)

[Financial Restructuring](#)

[Intellectual Property](#)

[Litigation](#)

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[Appellate Litigation](#)

[Intellectual Property Litigation](#)

[Securities Litigation](#)

[International Arbitration](#)

ability to quickly understanding new industries and the economics of his clients' businesses. David works closely with financial advisors and expert witnesses and engages directly with detailed technical and financial analysis. David has litigated and advised on Chapter 11, Chapter 15 and Chapter 9 bankruptcy matters.

Prior to joining Bracewell, David served as a clerk in the Southern District of New York for the Honorable William C. Conner and on the Tenth Circuit Court of Appeals for the Honorable Monroe G. McKay.

Experience

Toshiba America Electronic Components, Inc.

- secured voluntary dismissal with prejudice and without any payment after four-year litigation over patents related to self-encrypting solid state and hard disc drives

Toshiba America Business Solutions, Inc.

- successfully invalidated five US patents which had been asserted by Monument Peak Ventures, LLC ("MPV") against firm clients Toshiba Corp., Toshiba America Electronic Components, Inc., and Toshiba America Business Solutions, Inc. The technologies at issue related to facial recognition algorithms, digital marketing, and the capture and manipulation of digital images.

Natixis

- as administrative agent for the first lien lender group in the MDC Energy LLC (d/b/a MDC Texas Energy) Chapter 11 bankruptcy case

Biotechnology arbitration

- first chaired eight-day ICC arbitration defending biotechnology company accused of breach of contract and resulting in award of no damages.

CARES Act Loan Programs

- advising lenders and borrowers on documenting and other aspects of the loan programs offered under the US Coronavirus Aid, Relief, and Economic Security Act (CARES Act)

HTC Corporation

- obtained a complete victory for consumer electronics company HTC in a trademark infringement case in the Eastern District of Virginia. Recently won a ruling entitling HTC to recover \$1.5 million in fees based on the exceptional nature of the case.

Big Fish Games, Inc.

- defense in multiple patent infringement actions resulting in outright dismissal based on invalidation of numerous patents, upheld on appeal before the Federal Circuit

Toshiba Tec Corporation

- asserting nine patents in infringement action against competitor related to toner cartridges

Toshiba Corp. and its subsidiaries

- defense in an International Trade Commission patent infringement investigation concerning digital signal processing

Ahern Rentals, Inc.

- noteholder group in Chapter 11 proceedings of Ahern Rentals, Inc. that resulted in a full recovery for the noteholders after the court agreed to terminate Ahern's exclusive right to file a plan of reorganization. The *M&A Advisor* recognized this transaction in two categories in the 2014 Turnaround Awards, including as the **Restructuring Deal of the Year** (over \$500 million to \$1 billion).

Energy & Exploration Partners, LLC

- debtors in Chapter 11 proceedings resulting in the restructuring of more than \$1 billion of funded debt enabling the company to emerge from Chapter 11 with a deleveraged balance sheet and new financing to support future operations. The transaction was named by Global M&A Network as the 2017 Turnaround Atlas Awards **Turnaround of the Year** (\$1 billion-\$2 billion) Network.

Optim Energy, LLC

- debtor in Chapter 11 proceedings, including the successful 363 sale of the Twin Oaks Plant to a unit of Blackstone Group and the confirmation of a plan of reorganization for the debtors' other remaining power generation business

Major European electronics manufacturer

- disputes and audits arising out of its licensing of various technologies

B.E. Meyers & Co., Inc.

- sued licensee of in breach of license agreement action to obtain right to perform audit and conducted the audit

International Trademark Association

- authored Fourth Circuit amicus brief in *Shammas v. Focarino* concerning fees charged to trademark applicants
- authored Supreme Court amicus brief in *Hana Financial, Inc. v. Hana Bank* on behalf of successful respondent

JPMorgan Chase

- obtained dismissal and affirmance on appeal before Eighth Circuit of class actions concerning mortgage practices

JLB Capital

- successfully represented hedge fund in bankruptcy litigation and appeals before Eleventh Circuit and Nevada Supreme Court arising out of collapse of billion-dollar casino construction project

Overstock.com

- internet taxation appeal before the New York Court of Appeals

Credentials

Education

- New York University School of Law, J.D., 2004, *cum laude*
- Tufts University, B.A., 2000, *cum laude*

Bar Admissions

- New York
- New Jersey
- District of Columbia
- Washington

Recognition

Lawdragon Inc.

- *Lawdragon 500 Leading Litigators in America*, IP, International Arbitration, Restructuring, 2024 – 2025
- *Lawdragon 500 Leading Global IP Lawyers*, Litigation, IP, Patent, 2025

Globe Business Publishing Ltd.

- *IAM Patent 1000*, 2024 – 2025

Euromoney Institutional Investor PLC

- *Benchmark Litigation*, New York Intellectual Property, 2020

The Legal 500 United States

- Intellectual Property – Trademarks: Non-Contentious (full coverage), 2018

Euromoney Institutional Investor PLC

- *Benchmark Litigation*, 40 & Under Hot List, 2017

Thomson Reuters

- *New York Metro Super Lawyers*, 2023
- *New York Metro Super Lawyers*, Rising Stars, 2014 – 2016

Resources

Second Circuit Confirms U.S. Discovery Not Available in Private International Arbitrations

Update

PPP Reboot Likely to Include Second Round of Funding for Distressed Businesses

Update

New PPP Rules Governing M&A Transactions

Update

PPP 2.0: Expanded Lending For New and Existing Borrowers

Update

Reverse Veil-Piercing Endorsed by Delaware Chancery Court

Update

Supreme Court Set to Resolve Impasse Over US Discovery in International Arbitration

Article

Supreme Court Resolves Circuit Split Over 28 U.S.C. § 1782

Update

Questions Remain After Supreme Court Resolves Circuit Split Over Discovery in Arbitration Under 28 U.S.C. § 1782

Article

The Irony – Using Generative AI in a Case About the Dangers of Generative AI

Article

Publications & Speeches

- "The Irony – Using Generative AI in a Case About the Dangers of Generative AI," *Westlaw Today*, Thomson Reuters, January 30, 2025.
- "Questions Remain After Supreme Court Resolves Circuit Split Over Discovery in Arbitration Under 28 U.S.C. § 1782," *Reuters Legal News and Westlaw Today*, June 28, 2022.
- "Supreme Court Set to Resolve Impasse Over US Discovery in International Arbitration," *Westlaw Today*, Thomson Reuters, May 5, 2022.
- "Valuing a Business," *Commercial Litigation in New York State Courts*, 2020 edition.
- "Business Valuation (Chapter 156)," *Commercial Litigation in New York State Courts* (5th ed.) (forthcoming).
- "Best Practices to Establish and Maintain a Proactive Royalty Compliance Program," *Association of University Technology Managers (AUTM)*, September 30, 2016.
- "Patent Damage Pitfalls Await the Unprepared," *IP Magazine*, September 2016.
- "Trademark Tacking And What It Means For Your Brands," *World Trademark Review*, August/September 2015.
- "Brand Owners Can Make Trademark Tacking Stick," *Law 360*, January 26, 2015.
- "Reading the Tea Leaves on Cybersecurity Regulation," *American Banker*, November 26, 2014.
- "IP Owners Beware: The Third Industrial Revolution is Upon Us" *LawyerMade*, September 2014.
- "Expedited Procedures in New York Courts Guarantee Trial in Just Nine Months" *Transaction Advisors*, August 2014.
- "Software patents survive Supreme Court's Alice decision, but questions linger" *Westlaw Journal Computer and Internet*, Vol. 32, Issue 3, July 2014.
- "Delaware Court Clarifies Director and Officer Liability in M&A Transactions," *Transaction Advisors*, July 2014.