



## Morgan T. Nickerson

### Partner

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### OVERVIEW

Morgan Nickerson is a partner in the Boston office and a member of the firm's antitrust and intellectual property teams. His practice focuses on the protection of global distribution programs through suppression of gray market and counterfeit activities. His litigation experience includes high stake competition cases concentrating on intellectual property, comparative advertising, monopolization, and importation/exportation disputes.

In addition to litigation experience, Mr. Nickerson advises luxury goods manufacturers on resale price maintenance strategies designed to limit online price erosion, global pricing arbitrage opportunities, and brand dilution. This includes antitrust counseling and implementation of Unilateral Pricing Policies, Minimum Advertised Price (MAP) policies, and selective distribution strategies in North America, Europe, and Asia.

### PROFESSIONAL BACKGROUND

Prior to joining K&L Gates, Mr. Nickerson was a partner at a national law firm.

### ACHIEVEMENTS

- Named a Massachusetts “Super Lawyer” in Intellectual Property Litigation by New England Super Lawyers (2018)
- Named a “Rising Star” by New England Super Lawyers (2011-2017)

### PROFESSIONAL / CIVIC ACTIVITIES

- American Bar Association, Intellectual Property and Antitrust section
- Boston Bar Association, Intellectual Property and Antitrust section

### EDUCATION

- J.D., Suffolk University Law School, 2006 (*Moot Court Honor Board, Journal of Trial and Appellate Advocacy*)

- B.S., University of Massachusetts at Amherst, 2000

## ADMISSIONS

- Bar of Maine
- Bar of Massachusetts
- United States Court of Appeals for the Eleventh Circuit
- United States Court of Appeals for the First Circuit
- United States District Court for the District of Maine
- United States District Court for the District of Massachusetts
- United States District Court for the Northern District of Florida

## THOUGHT LEADERSHIP POWERED BY HUB

- 23 September 2021, Combatting the Rise in False Advertising by White-Label Manufacturers on the Internet (*Alerts/Updates*)
- 17 May 2021, Resale Price Maintenance May Carry More Risk Than Originally Thought in Canada, Eh? (*Alerts/Updates*)
- 19 January 2021, Manufacturers Must Not be Blind to Their Rights Against Counterfeiters (*Alerts/Updates*)
- 4 May 2020, Supreme Court Raises the Stakes Against Unauthorized Resellers: Willfulness No Longer Required for Manufacturers to Obtain Profits in Trademark Cases (*Alerts/Updates*)
- 19 March 2020, Turning Over a New Leaf: Maine Law Court Provides Path for Foreclosing Entities to Cure Greenleaf Defects with Assignments of Mortgage and Signals That Reconsideration of Greenleaf May Be Warranted (*Alerts/Updates*)
- 3 June 2019, Unilateral Policies Are 99 Years Old And Still the Safest And Most Effective Form of Resale Price Maintenance (*Alerts/Updates*)
- 26 April 2019, Manufacturers Need to Mitigate Risk of Price Bias Claims (*Alerts/Updates*)
- 14 February 2018, Disfavored Retailers Turning Up the Volume on Robinson-Patman Litigation (*Alerts/Updates*)
- 2 June 2016, Behind the Curtain: Technical Advisors in Complex Litigation (*Alerts/Updates*)
- 4 April 2016, Mortgage Lenders, Holders, and Servicers Beware: Massachusetts High Court Endorses Condominium Association's Super Lien Practice (*Alerts/Updates*)

## OTHER PUBLICATIONS

- "Counterfeit Corner," *The Licensing Journal*, March 2021
- "Manufacturers Need To Mitigate Risk Of Price Bias Claims," *Law360*, 12 April 2019
- "Disfavored Retailers Turn Up Volume On Robinson-Patman," *Law360*, 20 February 2018
- "Price Check: Uncertain Outcomes In Advertised Price Cases," *Law360*, June 29, 2016
- "Behind The Curtain: Technical Advisers In Complex Cases," *Law360*, 27 May 2016
- "Business as Usual," *Corporate Counsel*, May 2011

## NEWS & EVENTS

- 30 July 2015, K&L Gates Strengthens Investment Management Practice with Boston Lawyer Addition (*Press Release*)

## MEDIA MENTIONS

- Mentioned, "GOOGLE LLC: Sandofsky Appeals FCRA Suit Dismissal to 1st Cir.," *Class Action Reporter*, 5 October 2021

## AREAS OF FOCUS

- Antitrust, Competition, and Trade Regulation
- Financial Institutions and Services Litigation
- IP Litigation
- Payments, Banking Regulation, and Consumer Financial Services

## REPRESENTATIVE EXPERIENCE

- *Savant Systems v Crestron Electronics* (2014), Massachusetts, Federal District Court. Confidential Settlement, represented plaintiff in Sherman Act monopolization claim.
- *Roxul USA, Inc. v. Armstrong Worldwide Industries*, Delaware Federal District Court. Defeated motion to dismiss and motion for summary judgment in lawsuit alleging improper monopolization of acoustical ceiling tile marketplace. Confidential Settlement.
- *Bose Corp. v. Ejaz*, 732 F. 3d 17 (1st Cir. 2013) - Unanimous decision from First Circuit Court of Appeals affirming permanent injunction barring a gray market reseller from exporting products bearing US trademarks into Australia. *Bose Corporation v. Zavala*, Massachusetts Federal District Court (2012) - \$14 million

judgment, permanent injunction, and seizure order against reseller who was impermissibly importing product from Mexico into the U.S.

- *Roger Cleveland Golf Co. v. Prince*, - South Carolina Federal District Court (2012) - \$770,000 jury verdict against SEO company for contributory trademark infringement through its acts of optimizing a website that sold counterfeit golf clubs.
- *GN Netcom, Inc. v. Plantronics, Inc.*, 2016 WL 3792833, (D. Del. July 12, 2016) -Obtained \$5 million sanction and adverse inference for defendant's spoliation of evidence.
- *B&W Group Ltd Corp v. TVC Tech Group Ltd*, Massachusetts Superior Court (2014) - Obtained ex parte order freezing PayPal account of Chinese counterfeit reseller leading to a favorable settlement.