

Brian M. Willen

PARTNER

Litigation
New York

bwillen@wsgr.com
650-849-3340



FOCUS AREAS

Advertising, Promotions,
and Marketing

Digital Media and
Entertainment

Internet Strategy and
Litigation

Litigation

Supreme Court and
Appellate

Trademark and Advertising

HIGHLIGHTS

■ Represents Online Innovators

With a focus on internet-related litigation and counseling, Brian advises some of the world's most innovative online services—including Google, Dropbox, Flipboard, Pinterest, Twitter, Tumblr, and YouTube—on a range of complex and sensitive matters.

■ PragerU v. Google

Brian argued and won an important Ninth Circuit case holding that online platforms like YouTube are not state actors under the First Amendment.

■ Terrorism Litigation

Brian is lead counsel for Google in nearly a dozen landmark cases seeking to hold YouTube and other social media platforms liable for terrorist attacks around the world.

■ Government Experience

Brian previously worked in the Justice Department's Office of Legal Counsel, where he advised the Executive Branch on complex issues of constitutional law and national security.

EXPERIENCE

Brian Willen is a partner in Wilson Sonsini's internet litigation and strategy group. He advises some of the world's most innovative online companies—including Google, Dropbox, Flipboard, Pinterest, Spotify, Twitter, and YouTube—on a range of complex and sensitive matters. Brian's expertise includes copyright and trademark law (especially the DMCA safe harbors, fair use, and music copyright issues), Section 230 of the CDA, online privacy, government requests for user data, and the First Amendment.

Brian has an extensive and cutting-edge practice representing online platforms against attacks on their content-moderation practices. He is lead counsel for Google in nearly a dozen separate cases seeking to hold it liable for terrorist attacks around the world, including *Gonzalez v. Google*, which Brian argued in the Ninth Circuit. He has also represented both Google and Twitter against claims that they should be treated as state actors under the First Amendment, successfully arguing that issue in the Ninth Circuit in *PragerU v. Google*, the first major appellate decision holding that social media platforms are not public forums.

For nearly seven years, Brian was one of the lead lawyers for Google in the landmark *Viacom v. YouTube* litigation, and he has represented clients in many other copyright and internet law disputes, including cases under the Computer Fraud and Abuse Act, the Lanham Act, the Americans With Disabilities Act, the Video Privacy Protection Act, and the Wiretap Act.

Prior to joining the firm, Brian worked in the Justice Department's Office of Legal Counsel, where he advised the Executive Branch on complex issues of constitutional law and national security. He clerked for Judge Harry T. Edwards of the U.S. Court of Appeals for the D.C. Circuit (2001-2002) and for Judge Ellen S. Huvelle of the U.S. District Court for the District of Columbia (2002-2003).

CREDENTIALS

Education

- J.D., Yale Law School, 2001
Member, Yale Journal of Law and Humanities
- B.A., English, Yale University, 1998

Admissions

- Bar of the District of Columbia
- State Bar of Michigan
- State Bar of New York
- U.S. District Court for the Southern District of New York
- U.S. Court of Appeals for the Second Circuit
- U.S. Court of Appeals for the Ninth Circuit

MATTERS

Representative Matters

- Counsel for Google and YouTube in several important copyright cases, including *Viacom v. YouTube* and *Ark Promotions v. YouTube*
- Counsel for Google in nationwide consumer privacy class actions, including *Joffe v. Google* and *In re Google Android Consumer Privacy Litigation*
- Counsel for Google in cases involving CDA § 230 and application of the First Amendment to search engine results
- Represent Google in cases challenging ex parte orders requiring removal of content
- Counsel for Meltwater in *Associated Press v. Meltwater*, an important case involving fair use and "hot news" misappropriation
- Represent major consumer-electronics company in global privacy investigation
- Represent online services in cases defending First Amendment right of anonymous speech
- Counsel for Ferrari in dispute over control of branded pages on Facebook
- Represent Dropbox and Google in cases under California automatic-renewal law
- Counsel for Twitter and other online services in TCPA class actions
- Filed amicus brief for Dropbox in First Amendment challenge to gag order prohibiting online services from disclosing information about national-security orders
- Filed amicus briefs for Google, Pinterest, Twitter, and other clients in significant copyright cases, including *Capitol Records v. Vimeo*, *Columbia Pictures v. Fung*, and *Disney v. Hotfile*

INSIGHTS

Select Publications

- "Ruling in Yelp Case Was First of Its Kind," *Daily Journal*, July 11, 2018
- "*Kirtsaeng v. John Wiley & Sons*: The Supreme Court Saves the First Sale Doctrine," *CPI Antitrust Chronicle*, May 28, 2013
- Co-author with G. Poe, "Tailored to the Crime: Sentencing Case Shows Need to Defend Judicial Discretion," *Legal Times*, October 8, 2007