Tarter Krinsky & Drogin

Mark Berkowitz

Partner

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Mark Berkowitz is a partner in the Firm's Intellectual Property Practice with over 15 years of experience advising clients on a full range of intellectual property, e-commerce, and technology matters.

Leveraging his background in electrical engineering, Mark represents clients in patent litigation across a wide range of technologies, including consumer electronics, semiconductors, e-commerce, power distribution, and medical devices, among others.

Mark enforces and defends trademark, unfair competition, and false advertising claims. He has been lead counsel in more than 40 cases relating to the first-sale doctrine and is regularly called upon to defend the rights of merchants to resell branded goods.

A registered patent attorney, Mark prepares and prosecutes patent and trademark applications and participates in *inter partes* proceedings before the U.S. Patent and Trademark Office. Mark counsels clients with respect to a broad range of patent, trademark, and copyright matters and prepares opinions with respect to patentability, freedom-to-practice, infringement, and validity.

Mark represents numerous Amazon sellers and other e-commerce merchants in the cutting-edge intellectual property legal issues that they encounter, including those in Amazon's Patent Evaluation Express Program and in arbitration against Amazon. He is particularly experienced guiding clients through rights owner complaints on major e-commerce platforms, such as Amazon. Mark also counsels clients on developing intellectual property portfolios that will provide the most value in an online world.

Before attending law school, he worked as an electrical engineer at a global defense firm, where he gained experience in circuit design, software development, and manufacturing.

Education

- State University of New York at Stony Brook (B.S., *magna cum laude*)
    - Electrical Engineering
- St. John's University School of Law (J.D.)

Related Services

- Intellectual Property
- Amazon & E-Commerce
- Patent Prosecution & Litigation
- Trademark & Brand Management

Bar Admissions

- New York
- New Jersey
- U.S. District Court for the Southern District of New York
- U.S. District Court for the Eastern District of New York
- U.S. District Court for the District of New Jersey
- U.S. Court of Appeals for the Federal Circuit
- U.S. Supreme Court
- U.S. Patent and Trademark Office
- U.S. District Court for the Eastern District of Michigan
- U.S. District Court for the Northern District of Illinois
- U.S. District Court for the District of Colorado
- U.S. Court of Appeals for the Second Circuit
- U.S. Court of Appeals for the Seventh Circuit

Languages

- Hebrew

Awards & Honors

- Super Lawyers, 2021-2025

Articles

- Putting IP Muscle Behind Your Amazon Hustle,*B-Tank Magazine*, Feb. 2019
- Partnering With U.S. Customs to Protect Your IP Rights and Supply Chain, *B-Tank Magazine*, Nov. 2018
- Non-Disclosure and Confidentiality Agreements: Securing a Business's Intangible Assets Under Legal Lock and Key, Sept. 2018
- *Trademark Demystified*,*B-Tank Magazine*, May 2018
- Evidence in Patent Cases, Chapter: General Provisions,*American Intellectual Property Law Association*, 2018

The Way of the DAO: Strengthening the Contracts Powering Crypto Markets

The Way of the DAO: Strengthening the Contracts Powering Crypto Markets

The slew of recent high-profile regulatory and criminal actions involving crypto exchanges tend to focus on the question of whether digital assets (e.g., cryptocurrencies, crypto tokens and NFTs) can be characterized as securities or commodities. Often overlooked in this debate are the decentralized autonomous organizations (commonly referred to as "DAOs") that serve as the governance mechanism for many individual digital assets and their marketplaces. Generally, DAOs are organizations constructed by rules encoded as a computer program—with the goal being that the code and rules are transparent to all. A DAO is controlled by the organization's members without centralized leadership or governmental oversight.

Notably, a DAO's financial transaction records and program rules are maintained on a blockchain that is typically governed by a "white paper" and "terms of use" that, if not carefully crafted, may render the DAOs' overall legal status unclear. The guidance to date from the courts is that a DAO's foundational documents should be assessed using common law contract principles. This makes inherent sense, but raises concerns because often DAOs are based on coding developed by programmers without full consideration of ultimate legal effect.

Rich Lomuscio and Mark Berkowitz are here to empower the entrepreneurs and developers creating next generation DAOs. Mr. Lomuscio draws on more than two decades experience of advising and litigating in the financial services industry. Mr. Berkowitz leverages his engineering and intellectual property background to provide clients with a deep understanding of how the law can be applied to emerging technologies.