STITES & HARBISON PLLC



David B. Owsley II

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Dave Owsley is an experienced trial and appellate lawyer who has successfully represented clients through complex and bet-the-company litigation in more than 35 jurisdictions in high-stakes matters involving intellectual property, commercial disputes, business torts, product liability, executive employment, financial misconduct, ESI issues, e-commerce, forensic investigations, emerging technologies, constitutional law, government investigations, fiduciary duties, corporate governance, investment management, unfair competition, antitrust, professional liability, legal ethics, and cross-border disputes. He also serves as outside general counsel for clients and assists in internal investigations. He is a member of the Business Litigation group in Louisville.

CAPABILITIES

Practice Areas

- Arbitration, Mediation & Alternative Dispute Resolution
- Antitrust, Consumer Protection & Attorney General Defense
- Appellate Advocacy
- Business Litigation
- Class Action, Mass Action & Multi-District Litigation
- Financial Services Litigation
- Government & Regulatory Litigation
- Intellectual Property Litigation
- Intellectual Property & Technology
- Professional Liability Litigation

- Real Estate & Land Use Litigation
- Privacy & Data Security
- Product Liability Litigation
- Employment Litigation
- Litigation & Appeals
- Administrative Law
- Advertising & Marketing Law
- Fiduciary Duty, Trade Secret & Unfair Competition Litigation
- Telecommunications, Technology & Internet Law

RECENT ASSIGNMENTS

- Currently prosecuting and defending multiple breach of contract, product liability, and employer liability actions alleging over **$200 million** in potential damages.
- After a five week jury trial in New Jersey federal court, obtained defense verdict for fragrance company Mane USA dismissing claims that Mane misappropriated 600 trade secret perfumes from Swiss fragrance giant Givaudan, who sought over **$80 million** in damages. Won at the Third Circuit Court of Appeals affirming the verdict. *See Givaudan Fragrances Corp. v. Krivda*, 639 Fed. Appx. 840, 2016 U.S. App. LEXIS 2459 (3d Cir. N.J. Feb. 12, 2016).
- Defended a corporate client in a high-stakes jury trial against a group of plaintiffs seeking over **$150 million** in compensatory and punitive damages for alleged chemical exposure. Obtained verdict dismissing wrongful death claim.
- Defended UK phone case manufacturer Tech21 against patent infringement claims filed by OtterBox at the United States International Trade Commission, *In the Matter of Certain Protective Cases for Electronic Devices and Components Thereof*, Investigation No. 337-TA-955. Obtained dismissal of the investigation, which threatened to ban importation of more than **$200 million** in prospective U.S. sales.
- Obtained a **$40 million** settlement for global flavor company V. Mane Fils in a lawsuit against industry giant International Flavors and Fragrances for claims of patent infringement, false advertising, unfair competition, and tortious interference. Reported in *NEW YORK TIMES*.
- Obtained **$10 million** plaintiff's judgment and pierced the corporate veil against defendants after a trial for fraud and breach of contract related to a business acquisition.

- Obtained defense judgment on behalf of a bank dismissing a **$30 million** claim for alleged investment mismanagement concerning the assets of a large trust. Obtained affirmance on appeal. *See Middleton v. PNC Bank, NA*, 2014 Ky. App. Unpub. LEXIS 846, 1-2 (Ky. Ct. App. Oct. 31, 2014), discretionary review denied *Middleton v. PNC Bank, N.A.*, 2015 Ky. LEXIS 1793 (Ky. Aug. 20, 2015).
- Obtained defense judgment dismissing claims brought by the Consumer Financial Protection Bureau alleging that a law firm paid "illegal kickbacks" in violation of RESPA. *See Consumer Fin. Prot. Bureau v. Borders & Borders*, PLC, 2017 U.S. Dist. LEXIS 108384, 2017 WL 2989183 (W.D. KY July 12, 2017). This was the CFPB's first loss at the trial court level, ending a six-year investigation and a four-year federal litigation. The CFPB had sought to disgorge millions of dollars of law firm revenue associated with work performed on multiple years of real estate transactions.
- Successfully represented a group of consumers and a commercial real estate brokerage firm in a series of constitutional cases under the Dormant Commerce Clause invalidating "turf state" laws that restricted interstate brokerage and impaired the national market for commercial real estate. Prevented state regulators from attempting to disgorge over **$100 million** in interstate brokerage commissions. Reported in the *WALL STREET JOURNAL*.
- Successfully represented a client in a joint venture dispute over control of a **$400 million** manufacturing facility.
- Overturned a **$11 million** default judgment against an employer for alleged unpaid compensation and then successfully prosecuted counterclaims for trade secret misappropriation, Lanham Act violations, and breach of fiduciary duty against a departing executive.
- Successfully prosecuted claims for trade secret misappropriation, breach of fiduciary duty, and breach of restrictive covenants against a group of executives who attempted poach more than **$15 million** of customer accounts from their employer while starting a rival business. Injunctions obtained against multiple parties following a bench trial.
- Successfully prosecuted complex breach of contract claims related to a business sale involving more than **$18 million** in compensatory damages.
- Successfully prosecuted claims on behalf of an employer for trade secret misappropriation, breach of fiduciary duty, and breach of restrictive covenants against a managerial employee who started a rival business and purported to secure **$5 million** in customer contracts. Injunctions obtained after a forensic investigation and bench trial.
- Obtained a series of federal judgments for a phone case manufacturer enforcing intellectual property rights relating to trade dress, trademark, Lanham Act violations, and patent claims.
- Obtained **$2.5 million** recovery in an arbitration demand for commercial indemnification on behalf of a manufacturer against a supplier.

- Obtained judgments of approximately **$2 million** recouping losses by investors in an international manufacturing facility.
- Obtained trial court and appellate rulings that a city's quasi-criminal enforcement actions were unconstitutional under the First Amendment and the doctrine of intergovernmental immunity. *City of Audubon Park v. Louisville Regional Airport Authority*, 2017 WL 4712775 (Ky.App., 2017).
- Successfully defended California Proposition 65 litigation related to chemical labeling.
- Successfully defended a business against a putative environmental class action.
- Successfully defended a manufacturer in an antitrust suit alleging unlawful price discrimination.
- Successfully prosecuted claims for trademark infringement, false advertising, unfair competition, and cybersquatting against a departing executive.
- Successfully prosecuted claims for indemnification related to false designation of product content and country of origin against a manufacturing supplier.
- Successfully defended multiple license revocation and disciplinary hearings before state bar associations and real estate brokerage regulatory agencies.
- Successfully defended actions involving the Digital Millennium Copyright Act (DMCA).
- Conducts internal financial investigations and forensic computer analysis, reports findings, and provides recommendations to clients and organizations.
- Advises entities on antitrust compliance and competition issues.

REPORTED DECISIONS

- *Material Handling Sys., Inc. v. Cabrera*, 572 F. Supp. 3d 375, 379 (W.D. Ky. 2021) – Trade Secret, Non-Competes, Fiduciary Duty
- *Consumer Fin. Prot. Bureau v. Borders & Borders, PLC*, 2017 U.S. Dist. LEXIS 108384, 2017 WL 2989183 (W.D. KY July 12, 2017) – CFPB, RESPA Anti-kickback, Government Investigation
- *Consumer Financial Protection Bureau v. Borders & Borders*, PLC, 2016 WL 9460472 (W.D. Ky., 2016) – Rule 37(c)(1) Sanctions Against Government
- *Consumer Financial Protection Bureau v. Borders & Borders*, PLC, 2016 WL 9460471 (W.D. Ky., 2016) – Rule 30(b)(6) Enforced Against Government
- *Givaudan Fragrances Corp. v. Krivda*, 639 Fed. Appx. 840, 2016 U.S. App. LEXIS 2459 (3d Cir. N.J. Feb. 12, 2016) – Appeals, Trade Secret, Fiduciary Duty, Confidentiality Agreements

- *Givaudan Fragrances Corp. v. Krivda*, 2013 U.S. Dist. LEXIS 153437 (D.N.J. Civil Action No. 3:08-cv-04409, Oct. 25, 2013) – Trade Secret, Fiduciary Duty, Confidentiality Agreements
- *In the Matter of Certain Protective Cases For Electronic Devices and Components Thereof*, USITC Inv. No. 337-TA-955, September 28, 2015, 2015 WL 13661825 – International Trade Commission, Patent Infringement
- *Duff v. Centrome, Inc.*, 2023 -Ohio- 1321, 2023 WL 3047478, (Ohio App. 12 Dist., 2023) – Appeals, Product Liability
- *Mundy v. Centrome, Inc.*, 2024 -Ohio- 1001, 2024 WL 1156553 (Ohio App. 12 Dist., 2024) – Appeals, Product Liability
- *Mundy v. Centrome, Inc.*, 2024-Ohio-3358, (Ohio App. 12 Dist., 2024) – Appeals, Product Liability
- *Middleton v. PNC Bank, NA*, 2014 WL 5510872, 2014 Ky. App. Unpub. LEXIS 846, 1-2 (Ky. Ct. App. Oct. 31, 2014), discretionary review denied *Middleton v. PNC Bank, N.A.*, 2015 Ky. LEXIS 1793 (Ky. Aug. 20, 2015) – Appeals, Trust and Estates, Investment Management
- *Tech 21 UK Limited et al v. Spigen Inc.*, Case No. 15-cv-05059 (N.D. CA) (DE# 50, Consent Judgment) – Trade Dress, Trademark Infringement
- *Tech 21 UK Limited et al v. Doria International, Inc.*, Case No. 5:16-cv-07144-BLF (N.D. CA) (DE# 17 Consent Judgment) – Trade Dress, Trademark Infringement
- *Tech 21 UK Limited et al v. Rubicon Ventures LLC*, Case No. 3:16-cv-07147-JST (N.D. CA) (DE# 17 Consent Judgment) – Trade Dress, Trademark, Patent Infringement
- *Marcus & Millichap Real Estate Inv. Brokerage Co. v. Skeeters*, 395 F. Supp. 2d 541 (W.D. Ky. 2005) – Lanham Act, Constitutional Law
- *River Oaks Mgmt. v. Brown*, 2007 U.S. Dist. LEXIS 65286 (W.D. Ky. 2007) – Constitutional Law
- *LexCin Ptnrs, Ltd. v. Newmark S. Region, LLC*, 2009 Ky. App. Unpub. LEXIS 638 (Ky. Ct. App. July 31, 2009) – Appeals, Breach of Contract, Constitutional Law
- *V. Mane Fils S.A. v. Int'l Flavors & Fragrances, Inc.*, 249 F.R.D. 152 (D.N.J. 2008) – Privilege Waiver, Patent Infringement, False Advertising, Lanham Act; *see also V.Mane Fils S.A. v. Int'l Flavors & Fragrances, Inc.*, 2011 U.S. Dist. LEXIS 38637 (D.N.J. Apr. 8, 2011); *V. Mane Fils S.A. v. Int'l Flavors & Fragrances, Inc.*, 2008 U.S. Dist. LEXIS 49578 (D.N.J. June 23, 2008); *V. Mane Fils S.A. v. Int'l Flavors & Fragrances, Inc.*, 2008 U.S. Dist. LEXIS 63619 (D.N.J. Aug. 19, 2008); *V. Mane Fils S.A. v. Int'l Flavors & Fragrances, Inc.*, 2008 U.S. Dist. LEXIS 82540 (D.N.J. Oct. 15, 2008); *V. Mane Fils S.A. v. Int'l Flavors & Fragrances, Inc.*, 2009 U.S. Dist. LEXIS 56462 (D.N.J. July 1, 2009); *V. Mane Fils S.A. v. Int'l Flavors & Fragrances, Inc.*, 2010 U.S. Dist. LEXIS 45645 (D.N.J. May 6, 2010)

- *Durstcrew, LLC v. Tech21 UK Limited*, 2017 WL 10591603 (W.D.Tex., 2017) – Contract, Trade Secret, Breach of Fiduciary Duty, Default Judgment
- *Pharmerica Corporation v. Advanced HCS LLC*, 2018 WL 3326822 (E.D. Tex., 2018) – Contract, Veil Piercing
- *PharMerica Corporation v. Advanced HCS LLC*, 2017 WL 7732174 (E.D.Tex., 2017) – Arbitration
- *Pixels.com, LLC v. Instagram, LLC*, 2015 WL 10943591 (N.D. Cal., 2015) – Antitrust, Trademark
- *Bravado Int'l Group Merchandising Services, Inc. v. Sean Broihier and Associates*, 2015 WL 13915022 (C.D.Cal., 2015) – Copyright, First Amendment, Preemption
- *Rodgers v. Gilbert*, 2012 WL 1567203 (W.D.Ky., 2012) – Government Contractor Immunity; *see also Rodgers v. Gilbert*, 2012 WL 95424 (W.D. Ky., 2012)
- *Arco Aluminum, Inc. v. Novelis, Inc.*, 2008 WL 451020 (W.D. Ky., 2008) – Joint Venture, Contract, Injunctive Relief
- *City of Audubon Park v. Louisville Regional Airport Authority*, 2017 WL 4712775 (Ky.App., 2017) – Constitutional Law, First Amendment, Governmental Immunity
- *Jefferson Street Holdings Intellectual Property LLC v. Tech 21 UK Limited*, 2019 WL 5795667 (W.D. Tex., 2019) – Patent Infringement
- *Static Control Components, Inc. v. Lexmark Int'l, Inc.*, 487 F. Supp. 2d 861 (E.D. Ky. 2007) – Antitrust, Patent

BAR ADMISSIONS

- Admitted Pro Hac Vice in Several Jurisdictions
- Kentucky
- U.S. Court of Appeals for the 3rd Circuit
- U.S. Court of Appeals for the 6th Circuit
- U.S. District Court for the Eastern District of Kentucky
- U.S. District Court for the Western District of Kentucky

RECENT NEWS, ARTICLES & SPEAKING ENGAGEMENTS

- Fragrance Co. Loses $80M Trade Secrets Suit

  by Joshua Alston, *LAW360*, February 7, 2014 ("In a case that has been billed as the largest New Jersey has ever seen regarding misappropriation of trade secrets, the federal jury ruled James Krivda, Givaudan's former vice president over its perfumery department, did not violate a confidentiality provision in his employment contract when he left the fragrance maker for competitor Mane USA in April 2008.")

- IFF and Mane Announce Settlement of Mane's Lawsuit Concerning Monomenthyl Succinate

  by staff writer, *NEW YORK TIMES,* December 29, 2011

- Victory for Tech21 as OtterBox ends patent dispute with protective case rival

  by Michael Garwood, *MobileNews*, September 15, 2015

- Turf Ruling & Dormant Commerce Clause Violators . . . Beware Kentucky!

  By Peter Lattman, *WALL STREET JOURNAL*, September 12, 2007

- Marcus & Millichap Wins 'Turf State' Lawsuit

  By Bob Howard, *GLOBE ST.*, September 13, 2007 ("The entire industry is expected to benefit from the victory in a federal lawsuit challenging Kentucky's law prohibiting cooperation with out-of-state brokers").

- Kentucky Law Firm Beats CFPB's Kickback Claims

  By C. Ryan Barber, *NATIONAL LAW JOURNAL*, July 14, 2017

- Title Agencies Did Not Violate RESPA Affiliated Business Rule

  The Title Insurance Law Newsletter, American Land Title Association, September 2017 *,with Michael Denbow, Richard A. Vance and T. Morgan Ward Jr.*

- 3rd Circ. Won't Revive $80M Fragrance Secrets Row

  by Dan Packel, *Law360.com*, February 12, 2016

- Failure to Provide Specific Information On Alleged Misappropriations Fatal to Claims

  BLOOMBERG, BNA PATENT, TRADEMARK & COPYRIGHT JOURNAL, October 29, 2013

- Use of Attorneys' Letters To Woo Business Held to Waive Privilege
  NEW JERSEY LAW JOURNAL, March 5, 2008
- Audubon Park loses appeal in airport dispute
  By Martha Elson, *COURIER-JOURNAL,* December 29, 2015
- Accepting the Dual Sovereignty Exception to Double Jeopardy: A Hard Case Study
  81 *Wash. U. L.Q.* 765 (2003)
- FTC Issues Notice of Proposed Rulemaking to Ban Employee Non-Compete Agreements
  ,with Robin E. McGuffin Stites & Harbison Client Alert, January 5, 2023
- Stites & Harbison Obtains Defense Verdict in $80 Million Trade Secret Misappropriation Case
  Stites & Harbison, PLLC Client Alert, February 11, 2014

MEMBERSHIPS

- American Bar Association
- Kentucky Bar Association
- Louisville Bar Association
- Defense Research Institute
- Leadership Louisville

COMMUNITY INVOLVEMENT

- Leadership Louisville, Class of 2016
- Legal Aid Society

EDUCATION

- Washington University School of Law J.D., 2004
- University of Virginia B.A., Cognitive Science and Psychology, 2000

MORE THAN STITES & HARBISON

During law school, Dave worked for a clinic in South Africa. Before law school, Dave worked as a laboratory research assistant and for a dotcom startup. He also completed the McIntire Business Institute

program at the University of Virginia School of Commerce. He has volunteered for the Legal Aid Society in representing individuals and families in housing related issues and forcible detainer actions. He has backpacked extensively in Africa, Central America, Asia, and Europe.

ACCOLADES

- *Best Lawyers in America*®, Commercial Litigation (2018-27)
- *Benchmark Litigation* magazine, Litigation Star (2026)
- *Benchmark Litigation* magazine, Future Star (2015-25)
- *Legal500*, US City Elite, Kentucky Elite, Commercial Disputes (2026)
- *Kentucky Super Lawyers*®, Rising Star (2013-17)
- *Benchmark Litigation*, 40 & Under Hot List (2016, 2018)