

Curriculum Vitae of Brian M. Sowers

Applied Marketing Science, Inc.
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EDUCATION

2012 University of Colorado, Colorado Springs
Master of Business Administration

1995 Roanoke College
Bachelor of Arts in History

EMPLOYMENT

2014 – Present Principal
APPLIED MARKETING SCIENCE, INC., Burlington, MA

- Lead the firm’s Litigation Support practice to support expert testimony in civil cases through survey research and other marketing science initiatives.
- Manage referrals and support affiliated academic experts in matters where consumer opinions and behaviors are an important determinant of liability and damages.
- Manage case teams in complex cases (e.g., trademark and trade dress infringement, class action matters, false and deceptive advertising, antitrust issues and patent damages).
- Assist attorneys with assessing the benefits of collecting market research data, critique opposing expert reports, and prepare experts for deposition and trial questioning.
- Provide expert research consultation, expert witness testimony, and rebuttal critiques for consumer surveys designed for trademark, trade dress, false advertising, and class action litigation.

2011 – 2014 Senior Manager
APPLIED MARKETING SCIENCE, INC., Waltham, MA

- Supported consumer survey expert witnesses and attorneys in market research survey design and provided consultation to help experts prepare for deposition and trial testimony.
- Managed litigation consulting projects involving consumer surveys in trademark, false advertising, class action, and patent infringement matters.
- Coordinated all aspects of research project, including survey design, fieldwork, data analysis, and report development.

- 2003 – 2011
Senior Project Manager
FORBES CONSULTING GROUP, Lexington, MA
- Independently led all phases of custom quantitative and qualitative research for an industry leading marketing research supplier dedicated to consumer-driven business analysis.
 - Helped clients identify new marketplace opportunities, developed communication and positioning strategies, measured brand equity, and increased customer satisfaction and retention.
 - Managed approximately \$2.5 million of custom research annually.
- 2002 – 2003
Senior Analyst
LOCKHEED MARTIN CORPORATION, Fairfax, VA
- Developed market analyses and competitive strategies for multiple lines of business.
 - Granted Top Secret security clearance for the position.
- 1999 – 2002
Market Research Analyst
MCI WORLDCOM, Arlington, VA
- Designed, executed, analyzed, and delivered quantitative and qualitative market research to support internal marketing clients. Insights helped carry singularly focused telecom giant into a world of multiple competitors and diverse product lines.
 - Required a heightened awareness of technology shifts, a sense of consumer appetite, and readiness to navigate the shifting landscape.
 - Honed research skills in variable research methodologies. Received multiple individual and team awards.
- 1996 – 1999
Project Manager
MARKETING ANALYSTS, INC., Charleston, SC
- Managed custom quantitative market research for a leading Honomichl 50 research supplier.

EXPERT WITNESS (expert opinions and testimony in the last 5 years)

Eastern Savings Bank, F.S.B. v Eastern Savings Bank

Case No: 3:17-cv-00708, United States District Court, District of Connecticut
Trademark Confusion (2018 Report and Deposition)

Eveden Inc. v Color Image Apparel, Inc.

Case No: 2:17-cv-02121-MWF-JC, United States District Court, Central District of California
Trademark Confusion (2018 Report)

The Choice is Yours, Inc. v **The City of Philadelphia**

Case No: 2:14-cv-10804-JFL, United States District Court, Eastern District of Pennsylvania
Trademark Confusion (2018 Report)

Palm Partners, LLC v Palm Beach Treatment Center, LLC

Case No: 9:17-cv-80582-RLR, United States District Court, Southern District of Florida
Trademark Confusion (2018 Report and Deposition)

Herman Miller, Inc. v **Office Star Products**

Case No. 2:17-cv-04279-JAK, United States District Court, Central District of California
Trade Dress Confusion (2018 Report and Deposition)

HP Hood, LLC v Cytosport, Inc.

Case No. 01-17-0001-7218, American Arbitration Association
Consumer Behavior Survey (2018 Report, Deposition, and Arbitration Testimony)

Hasbro, Inc. v DC Comics and Warner Bros. Entertainment Inc.

Case No. 1:17-cv-06558, United States District Court, Southern District of New York
Trademark Confusion (2018 Report and Deposition)

Brooks Sports, Inc. v **Anta Co. Ltd.**

Case No. 1:17-cv-01458, United States District Court, Eastern District of Virginia
Trademark Confusion (2018 Report)

Ford Motor Company v **Geely Holding Group Co. Ltd.**

TTAB Opposition No. 91239104
Trademark Confusion (2018 Report)

Spangler Candy Company v **Tootsie Roll Industries, LLC**

Case No: 3:18-cv-01146-JJH, United States District Court, Northern District of Ohio
Trade Dress Confusion (2018 Report and Deposition)

Glaxo Group Limited v Canadian Pharmaceutical Association
Canadian Trademark Opposition No. 1626790 and No. 1626792
Secondary Meaning (2018 Report and Deposition)

Lodestar Anstalt v Route 66 Junkyard Brewery, LLC
Case No: 1:17-cv-00062-JCH-JHR, United States District Court, District of New Mexico
Trademark Confusion (2019 Report)

Judith Marilyn Donoff v Delta Air Lines, Inc.
Case No: 18-cv-81258, United States District Court, Southern District of Florida
False Advertising (2019 Report and Deposition)

Asurion, LLC v Netsurion, LLC
TTAB Opposition No. 91231568
Trademark Confusion (2019 Report)

Maui Jim, Inc. v SmartBuy Guru Enterprises
Case No: 16-cv-09788, United States District Court, Northern District of Illinois
False Advertising (2019 Report and Deposition)

Monster Energy Company v PJ Trailers Manufacturing Company, Inc.
TTAB Opposition No. 92067968
Trademark Confusion (2019 Report)

Louisiana Pacific Corporation v **James Hardie Building Products, Inc.**
Case No: 3:18-cv-00447, United States District Court, Middle District of Tennessee
False Advertising (2019 Report and Deposition)

Milita Barbara Dolan v JetBlue Airways Corporation
Case No: 18-cv-62193-RNS, United States District Court, Southern District of Florida
False Advertising (2019 Report and Deposition)

Provepharm, Inc. v **Akorn, Inc.**
Case No: 17-cv-7087, United States District Court, Eastern District of New York
False Advertising (2019 Report and Deposition)

Mercury Luggage Manufacturing Co. v **Sandpiper of California**
TTAB Opposition No. 92070168
Genericness (2019 Report)

Undiscovered Corporation v Heist Studios
Case No: 2:18-cv-05719, United States District Court, Central District of California
Trademark Confusion (2019 Report and Deposition)

International Association of Home Inspectors v American Society of Home Inspectors
Case No: 1:18-cv-01797-RBJ, United States District Court, District of Colorado
False Advertising (2019 Report and Deposition)

Simplehuman v iTouchless Housewares
Case No: 2:19-cv-02351, United States District Court, Central District of California
Trade Dress Confusion (2020 Report and Deposition)

ALO, LLC v **Acadia Malibu, Inc.**
Case No: 2:19-cv-08389-SVW, United States District Court, Central District of California
Trademark Confusion (2020 Report and Deposition)

Andrew Roley v Google, LLC
Case No: 5:18-cv-07537-BLF, United States District Court, Northern District of California
False Advertising (2020 Report and Deposition)

Scrum Alliance, Inc. v **Scrum, Inc.**
Case No: 4:20-cv-00227, United States District Court, Eastern District of Texas
Trademark Confusion (2020 Report and Deposition)

Healthy Web, Inc. v Xymogen, Inc.
TTAB Opposition No. 91249473
Trademark Confusion (2020 Report and Deposition)

New NGC, Inc. v **Alpinebay, Inc.**
Case No: 1:19-cv-03978, United States District Court, Eastern District of Illinois
Secondary Meaning (2020 Report and Deposition)

Sauer Brands, Inc. v Duke Sandwich Productions, Inc.
Case No: 3:19-cv-00508, United States District Court, Western District of North Carolina
Trademark Confusion (2020 Report and Deposition)

JBR, Inc. v Keurig Green Mountain, Inc.
Case No: 1:14-md-2542, United States District Court, Southern District of New York
False Advertising (2020 Report and Deposition)

Ralph Milan et al. v Clif Bar & Company
Case No: 4:18-cv-02354, United States District Court, Northern District of California
False Advertising (2020 Report and Deposition)

Emerson Radio Corporation v **Emerson Quiet Kool**
Case No: 2:17-cv-05358, United States District Court, District of New Jersey
Trademark Confusion (2020 Report and Deposition)

Pacific Packaging Concepts v Nutrisystem, Inc.
Case No: 2:19-cv-04755, United States District Court, Central District of California
Trademark Confusion (2020 Report and Deposition)

Muzeit Ltd. v ByteDance Ltd.
TTAB Opposition No. 92070954
Trademark Confusion (2021 Report and Deposition)

Elysium Health v ChromaDex, Inc.
Case No: 1:17-cv-07394, United States District Court, Southern District of New York
False Advertising (2021 Report and Deposition)

Fair Isaac Corporation. v Fido Alliance, Inc.
TTAB Opposition No. 91249276
Trademark Confusion (2021 Report and Deposition)

KB Home v **Kookmin Bank Co. Ltd.**
TTAB Opposition No. 91226921
Trademark Confusion (2021 Report and Deposition)

Dewberry Engineers, Inc. v **Dewberry Group, Inc.**
Case No: 1:20-cv-610, United States District Court, Eastern District of Virginia
Trademark Confusion (2021 Report and Deposition)

Horizon AG-Products v **Verdesian Life Sciences, LLC**
Case No: 3:19-cv-00722-X, United States District Court, Northern District of Texas
Trademark Confusion (2021 Report and Deposition)

Coulter Ventures, LLC v **Rogue Ridge, LLC**
TTAB Opposition No. 91252714
Trademark Confusion (2021 Report and Deposition)

Salutare S.A v **Remedy Drinks Pty Ltd.**
TTAB Opposition No. 91256556
Trademark Confusion (2021 Report)

Premier Specialty Brands, LLC v Dansons US, LLC
Case No: 1:20-cv-01573-JPB, United States District Court, Northern District of Georgia
Trademark Confusion (2021 Report and Deposition)

Blumenthal Distributing, Inc. v Herman Miller, Inc.
Case No. 5:14-cv-01926-JAK-SPx, United States District Court, Central District of California
Trade Dress Confusion (2021 Report and Deposition)

Kohler Co. v Whistling Oak Apartments, LLC
Case No. 2:20-cv-1563, United States District Court, Eastern District of Wisconsin
Trademark Confusion (2021 Report and Deposition)

Federal Trade Commission v Nudge, LLC et al.
Case No. 2:19-cv-00867-RJS, United States District Court, District of Utah, Central Division
False Advertising (2021 Report and Deposition)

Reflex Media, Inc. et al. v Luxy Ltd.
Case No. 2:20-cv-00423-RGK, United States District Court, Central District of California
Genericness (2021 Report and Deposition)

Adidas America, Inc. v Fashion Nova, Inc.
Case No. 3:19-cv-740-AC, United States District Court, District of Oregon, Portland Division
Trademark Fame (2021 Report and Deposition)

Vans, Inc. v Walmart, Inc., et al.
Case No. 8:21-cv-01876, United States District Court, Central District of California
Secondary Meaning; Trademark and Trade Dress Confusion (2021 Report and Deposition)

M. George Hansen v Newegg.com Americas, Inc.
Case No. BC566698, Superior Court of California, County of Los Angeles - Central District
False Advertising (2022 Report and Deposition)

Lettuce Entertain You Enterprises, Inc. v Siesta Key Summer House LLC.
Case No. 8:21-cv-01458-VMC-SPF, United States District Court, Middle District of Florida
Trademark Confusion (2022 Report and Deposition)

Top Tobacco, L.P. v ShenZhen Woody Vapes Technology Co. Ltd.
TTAB Opposition No. 91270221
Trademark Confusion (2022 Report)

Tree House Recovery v Freedom Healthcare of America LLC
Case No. 8:21-cv-00364-DOC-KESx, United States District Court, Central District of California
Trademark Confusion (2022 Report and Deposition)

Strategic Partners, Inc. v FIGS, Inc.
Case No. 2:19-cv-02286-GW-KSx, United States District Court, Central District of California
False Advertising (2022 Report and Deposition)

Lifetime Products, Inc. v Globeride, Inc.
TTAB Opposition No. 91263954
Trademark Confusion (2022 Report and Deposition)

StratosAudio, Inc. v Hyundai Motor America, et al.
Case No. 6:20-cv-01126-ADA, United States District Court, Western District of Texas
Patent Infringement (2022 Report and Deposition)

Upmann Sanchez Turf and Landscape, Inc. v **US Turf, LLC**
Case No. 2:21-cv-01749-JCM-DJA, United States District Court, District of Nevada
Secondary Meaning (2022 Report and Deposition)

Anne de Lacour et al. v Tom's of Maine Inc.
Case No. 1:16-cv-08364, United States District Court, Southern District of New York
False Advertising (2022 Report and Deposition)

Ben Abbott and Associates, PLLC v **Angel Reyes and Associates, P.C.**
Case No. DC-21-05441, District Court of Dallas County, Texas
Trademark Confusion (2022 Report and Deposition)

Monster Energy Company v Advantus, Corp.
TTAB Opposition No. 91251623
Trademark Confusion (2022 Report)

NeighborFavor Inc. v **Hey Favor, Inc.**
Case No. 1:22-cv-00618-LY, United States District Court, Western District of Texas
Trademark Confusion (2022 Report and Preliminary Injunction Hearing Testimony)

Martin Melnick et al. v TAMKO Building Products LLC
Case No. 2:19-cv-02630-JWL-KGG, United States District Court, District of Kansas
False Advertising (2022 Report and Deposition)

Guardant Health, Inc. v Natera, Inc.
Case No. 3:21-cv-04062, United States District Court, Northern District of California
False Advertising (2022 Report and Deposition)

Niagara Bottling, LLC. v Coca-Cola Puerto Rico Bottlers
Case No. 18-cv-1414-DRD, United States District Court, District of Puerto Rico
Trademark Confusion (2022 Report and Deposition)

Alcon Laboratories, Inc. v Lens.com, Inc.
Case No. 1:18-cv-00407-NG-RLM, United States District Court, Eastern District of New York
Trademark Confusion (2022 Report and Deposition)

Adidas America, Inc. v **Thom Browne, Inc.**
Case No. 1:21-cv-05615, United States District Court, Southern District of New York
Trademark Fame and Trademark Confusion (2022 Report and Deposition)

In the matter of **Perdue Foods** before the United States Department of Agriculture
Consumer Perception Survey (2022 Report and Testimony)

Snap, Inc. v United States Patent and Trademark Office
Case No. 2:22-cv-00085, United States District Court, Central District of California
Genericness (2023 Report and Deposition; 2024 Trial Testimony)

City of Leavenworth v Projekt Bayern Association
Case No. 2:22-cv-00174, United States District Court, Eastern District of Washington
Secondary Meaning (2023 Report)

Top Tobacco, L.P. v **ShenZhen Woody Vapes Technology Co. Ltd.**
TTAB Opposition No. 91278037
Trademark Confusion (2023 Report)

Vans, Inc. v Walmart, Inc., et al.
Case No. 8:21-cv-01876, United States District Court, Central District of California
Trademark and Trade Dress Confusion (2023 Report and Deposition)

Reflex Media, Inc. et al. v Successfulmatch.com, et al.
Case No. 3:20-cv-006393, United States District Court, Northern District of California
Genericness (2023 Report)

Juanita's Foods v **Dominguez Family Enterprises**
Case No. 2:22-cv-06049-PA-PLAx, United States District Court, Central District of California
Trademark Confusion (2023 Report and Deposition)

Dominguez Family Enterprises v Juanita's Foods
Case No. 2:23-cv-01499-SB-MAA, United States District Court, Central District of California
Trademark Confusion (2023 Report and Deposition)

William Rushing et al. v Williams-Sonoma, Inc.
Case No. 3:16-cv-01421-WHO, United States District Court, Northern District of California
False Advertising (2023 Report)

Danny D. Moore v Medical Management International, Inc.
TTAB Opposition No. 91281782
Trademark Confusion (2023 Report)

Mattress Warehouse, Inc. v United States Patent and Trademark Office
TTAB Application No. 97391190
Genericness (2023 Report)

Lincare Holdings, Inc. v Doxo, Inc.
Case No. 8:22-cv-02349, United States District Court, Middle District of Florida
Trademark Confusion (2023 Report and Deposition)

Vermeer Manufacturing Company v AeroCine Ventures, Inc.
TTAB Opposition No. 92080355
Brand Awareness (2023 Report)

Eight Sushi Lounge v Ten Sushi Lounge
Case No. 1:23-cv-00763, United States District Court, Northern District of Georgia
Trademark Confusion (2023 Report)

Rebel Athletic Inc v CheerStix
Case No. 1:22-cv-3330, United States District Court, Northern District of Illinois
Secondary Meaning (2024 Report and Deposition)

Mercury One, Inc. v Honest History Co.
TTAB Opposition No. 92081595
Secondary Meaning (2024 Report and Deposition)

Threshold Enterprises Ltd. v LifeForce Digital Inc.
Case No. 5:22-cv-06483, United States District Court, Northern District of California
Trademark Confusion (2024 Report and Deposition)

NS Brands Ltd. v Mastronardi Produce Ltd.
Case No. 5:23-cv-00445-JKP, United States District Court, Western District of Texas
Trade Dress Confusion (2024 Report and Deposition)

Matos Insurance Agency, Inc. v Mattos Insurance, Inc.
TTAB Opposition No. 92082310
Secondary Meaning (2024 Report)

Phoenix USA RV, Inc. v Hoosier Custom Cruisers, LLC
Case No. 3:22-cv-00855, United States District Court, Northern District of Indiana
Secondary Meaning (2024 Report)

GR Opco, LLC v Eleven IP Holdings, LLC et al.
Case No. 1:22-cv-24119, United States District Court, Southern District of Florida
Trademark Confusion (2024 Report and Deposition)

Eleven IP Holdings, LLC et al. v Property Markets Group, Inc. et al.
Case No. 1:22-cv-24119, United States District Court, Southern District of Florida
Trademark Confusion (2024 Report and Deposition)

Mud Wtr, Inc. v Mud LLC

Case No. 7:23-cv-02033, United States District Court, Southern District of New York
Secondary Meaning (2024 Report)

GuruNanda, LLC v Shenzhen Moulis Electronic Co. et al.

Case No. 30-2024-01370493, Superior Court of the State of California, County of Orange
Trade Dress Confusion (2024 Report)

Jeffrey Albert Sjobring v First American Title Insurance Company et al.

Case No. BC329482, Superior Court of the State of California, County of Los Angeles
Consumer Behavior (2024 Report)

Sonate Corporation v Dunkin' Brands Group Inc. et al.

Case No. 1:23-cv-10690-IT, United States District Court, District of Massachusetts
Trademark Confusion (2024 Report)

Adidas America, Inc. v Catapult Group International Ltd.

TTAB Opposition No. 91265893
Trademark Confusion (2024 Report)

PUBLICATIONS

Chorn, J.A., Santana, M.C., & Sowers, B.M. (2020). Surveys in Lanham Act Matters. *IP Litigator*, 26(6), 1-7.

PRESENTATIONS

Emerging Issues Related to the Use of Surveys in IP Matters
(Miami Dade Bar Association, November 2021)

Emerging Issues Related to the Use of Surveys in IP Litigation
(DC Bar, August 2023)

The Role Of Consumer Surveys in IP Litigation
(American Bar Association, October 2024)

PROFESSIONAL AFFILIATIONS

American Association for Public Opinion Research (AAPOR)

Insights Association

Institute for Operations Research and Management Science (INFORMS)

International Trademark Association (INTA)

- Member Impact Studies Committee (2018-2019)
- Member Famous and Well-Known Marks Committee (2020-2023)
 - o Chair Dilution Subcommittee (2022-2023)
- Member of the Trademark Reporter Committee (2024-)