



## Tracy Gray

Partner

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**Tracy's practice focuses on the intersection of intellectual property, advertising, privacy, and consumer protection laws. She helps clients establish and increase brand affinity, customer loyalty, and maximize the value of their customer data and intellectual property assets.**

### PRACTICES

Advertising, Marketing, and Sponsorships  
 Intellectual Property  
 Privacy and Information Security  
 IT, Software and Technology  
 Transactions  
 Outsourcing and Offshoring  
 Trademarks and Foreign Portfolio Management  
 Copyrights  
 Entertainment, Media, and Sports  
 Cybersecurity and Data Breach Defense  
 Class Actions  
 Advertising, Labeling, and Consumer Class Actions  
 Cybersecurity and Privacy

### EDUCATION

University of Southern California School of Law, J.D., 1991

Brown University, B.A., 1988  
 Honors degree in Art History

### BAR ADMISSIONS

Colorado  
 California

Tracy has deep experience advising consumer-facing businesses across all legal aspects of marketing, particularly in the retail, restaurant, hospitality, and technology industries, and other organizations with sophisticated omni-channel marketing strategies operating nationwide or multi-jurisdictionally.

Tracy appreciates the challenges her clients face in their fast-paced, competitive environment, and takes time to build a deep understanding of their products, services, business goals, and intellectual property portfolios to proactively anticipate, assess, and resolve the legal challenges they may encounter.

She helps protect business concepts and trade secrets not subject to traditional copyright or trademark protection, and develops, executes, and safeguards her clients' strategic brand initiatives. In addition, she helps protect and monetize copyrights and trademarks through registration, enforcement actions, portfolio development, and licensing agreements.

### EXPERIENCE

#### Privacy and Consumer Protection

- Advise and provide practical counsel on state, federal, and international privacy and data protection laws, including CCPA, GDPR, Section 5 of the FTC Act, and data breach notification laws
- Collection, storage, use, and transfer of personal data and information
- Development, implementation, and audits of data retention programs
- Consumer protection, information security, and privacy laws, regulations and industry standards applicable to marketing, advertising and consumer acquisition and retention programs
- Implementation of industry-specific privacy and security-related compliance programs
- Strategic security breach response plans
- Website privacy policies and user agreements

- Employee e-mail, social media, and web usage policies
- Audits of client operations
- Privacy and publicity rights

### **Advertising & Marketing**

- Development of legal and industry compliant advertising and promotional campaigns
- Digital and social media strategies
- Sweepstakes and contest programs, rules, participant, prize, and release agreements for promotions
- Content development and acquisition
- Licensing programs and agreements
- Online marketing, email, and mobile campaigns
- Establishment of royalty structures
- Creation of branded loyalty and gift card programs
- Development of multi-tiered loyalty programs
- Affiliate marketing and publishing agreements
- Compliance with marketing, e-commerce, and advertising laws
- Structuring online and mobile promotional and customer acquisition programs

### **IP/Technology Licensing and Transactions**

- IP audits of company technology for pre-acquisition valuation
- Multi-media, e-commerce, and licensing agreements, including advertising and affiliate agreements, strategic alliances, website and app development, ASP, SaaS and PaaS agreements, and professional services agreements
- Content license agreements, software license and subscription agreements, support and maintenance agreements, intellectual property development agreements, clickwrap and shrinkwrap agreements, beta test site license agreements, distribution and reseller agreements, joint venture agreements, independent contractor and consulting agreements, and non-disclosure and confidentiality agreements
- Trade secrets and intellectual property license and transfer agreements, technology transfer agreements, marketing agreements, co-branding agreements, and network site license agreements
- Due diligence
- Licensing agreements to expand brand reach into multiple channels
- Outsourcing for IT infrastructure
- Comprehensive reviews of company operations and websites, guidance on best practices, and benchmarking

### **CLIENT RESULTS**

### **Advertising and Promotions**

Serves as primary counsel for multi-channel retailers for promotional campaigns, including gift cards, coupons, loyalty programs, sweepstakes, contests, and consumer protection strategy and compliance.

Launched multiple customer loyalty programs in restaurant and hospitality industry.

Serves as compliance counsel for marketing programs for online retailers.

### **Intellectual Property/Licensing and Technology**

Developed brand initiatives, intellectual property strategy, and portfolio for a multi-channel retailer.

### **Privacy, Consumer Protection, and Data Management**

Conducts privacy and security audits of multi-national companies and develops infrastructure to comply with international data protection legislation.

Serves as privacy counsel for multi-channel retailers, provides counsel on new developments, regulations, and legislation in the areas of online advertising, consumer privacy, social media, promotions, marketing, employment privacy, and data security.

Served as privacy and compliance counsel for a large healthcare company, including training, privacy awareness programs, and preparation of data breach response plan.

Has handled and/or advised on over 150 data security breach incidents involving residents of all states, implicating numerous varying state laws and regulations.

### **PUBLICATIONS**

"California Strikes Again - The Consumer Privacy Act of 2018," *Holland & Hart Ad Law Defense Blog*, Co-Author, 07/17/18

"SCOTUS Ruling Opens Door for States to Collect Taxes for Online Sales," *Holland & Hart News Update*, Co-Author, 06/26/2018

"Defending Data: New Colorado Law Creates Stricter Obligations for Handling Data Breaches, Disposal, and Security," *Holland & Hart News Update*, Co-Author, 06/05/2018

### **SPEAKING ENGAGEMENTS**

"Cybersecurity and Privacy - As Distinct but Equal Business Imperatives," November 16, 2017

"Cybersecurity Grabs Headlines, But Privacy Policies and Practices Are as Important," *Holland & Hart Cybersecurity Breakfast Series*, 11/16/2017

"The Grit Project: Using Grit & Growth Mindset To Advance Women In The

Law," *Colorado Women Bar Association, University of Colorado Law School*, April 8, 2015

## RECOGNITION

- *World Trademark Review (WTR) 1000 - The World's Leading Trademark Professionals*, Colorado, Bronze Band 2018, 2019
- *IAM Patent 1000 – The World's Leading Patent Practitioners, Licensing*, 2013-2017
- *Managing Intellectual Property*, IP Star, 2018, 2019
- *Chambers USA*, Intellectual Property, 2006-2015

## PROFESSIONAL AND CIVIC AFFILIATIONS

- International Association of Privacy Professionals, Certified Information Privacy Professional (CIPP/US)
- University of Colorado Entrepreneurial Law Clinic, Clinical Advisor
- University of Colorado Leeds School of Business, Guest Lecturer
- Brown University, Vice President Class of '88
- Brown University BASC Alumni Interviewer, 1990-2017
- Colorado Attorneys for the Arts, Volunteer Attorney
- Colorado Bar Association, Member
- Boulder County Bar Association, Member
- American Bar Association, Sections for Anti-Trust, Privacy and Information Security, and Intellectual Property, Member