



# BRAND & BRANCH LLP

intellectual property legal services

Our Work Together



## INTELLECTUAL PROPERTY IS OUR BUSINESS

Brand & Branch LLP offers intellectual property legal services to the food and beverage, publishing, technology, retail, and cannabis industries. This material provides information on our services and our backgrounds. To follow up on this information and retain us for your legal needs, please contact us at (510) 984-4285 or at [trademarks@brandandbranch.com](mailto:trademarks@brandandbranch.com). You may also find more information about us on our website located at <http://www.brandandbranch.com>.

### What Makes Us Different.

Brand & Branch was formed by two “big law” expats. We understand and appreciate the quality legal services and client commitment that characterize large law firms—but we don’t think good things have to come in big packages. Instead, we founded Brand & Branch to provide high-quality, nimble, and cost-effective intellectual property services to meet the needs of early- and mid-stage companies. We believe a boutique law firm can provide the kind of personalized and professional experience that truly benefits our clients.

The attorneys at Brand & Branch have experience with both litigation and transactions. This mix of experience distinguishes us and gives us a unique perspective on counseling, deal making, and disputes. We provide legal counseling from a holistic, 360-degree perspective because we’ve seen all sides of a deal gone right and gone wrong. We understand that business can’t ignore legal, and legal can’t alienate business. Our assets rest with our understanding of this relationship.

### Our Services.

The partners at Brand & Branch have extensive experience counseling clients on intellectual property issues with an emphasis in the cannabis, food and beverage, technology, retail, and publishing industries. Specifically, we offer the following services to our clients:

#### **Trademark Selection, Clearance, And Enforcement. Copyright Registration And Enforcement.**

Your brand is everything, and we understand that. We will help you at any stage in securing your brand name, developing and taking ownership of your creative content, and enforcing the field so that you remain original. And we understand that many markets are global ones and to that end, our services and our contacts have global reach.

- **Brand selection.** We understand how important your brand is to you and your business. We will assist you in selecting a brand that you love and that presents a level of legal risk you are comfortable with. We do this by providing clearance search services, diligence in third party uses of the same or similar marks, and counseling on the risk assessment process.



- **Trademark Registration.** Trademark registrations are important—to you, to your investors, to enforcing your rights—and we help you secure them at the state level and at the United States Patent & Trademark Office (“PTO”) where appropriate. We offer a full suite of trademark registration services including developing the application information, preparing goods and services identifications, filing applications, corresponding with the PTO on your behalf, responding to any refusals that may issue, handling third-party oppositions, and managing all aspects of ongoing maintenance and future deadlines.
- **Worldwide Protection.** We have extensive experience with both domestic and international intellectual property, including trademark and copyright clearance, prosecution, and enforcement/disputes. We work with a wide range of foreign counsel to handle your global intellectual property portfolio.
- **Copyright Registration.** Copyright registrations are also important and can be useful tool in your intellectual property toolbox. We will ensure your original and creative works are assigned to you and are properly registered with the Copyright Office.
- **Enforcement.** Once you have your intellectual property rights secured, we will partner with you in enforcing your rights against others. This includes, instituting watch services, sending and responding to demand letters, filing actions in state court, federal court, and before the Trademark Trial & Appeal Board, and instituting and defending actions for the recovery of domain names.
- **Auditing Your IP Use.** We are business attorneys and we understand your business and marketing needs. With these needs always forefront in our mind, we will work with you in reviewing and auditing your products, websites, and internal and outward facing materials for proper use of intellectual property, advertising claims, and all intellectual property notifications. We will also advise you on proper use of your trademarks and proper uses of trademark and copyright notices, including preparing style guides for internal and third-party use.
- **Trade Secrets.** Finally, we also know your trade secrets are important to you, and to help you keep them secure, we will conduct an audit of your physical space for proper protection of all intellectual property, including trade secrets.

### **Agreements and Licensing.**

Partnerships help companies grow, and no one knows this better than Brand & Branch. To help you grow, we handle all aspects of trademark license agreements and other types of agreements.



- **Trademark License.** In the cannabis industry, the trademark license agreement is the tool with which your company can expand and your products and services can reach patients and consumers in other states. At Brand & Branch, we assist with all stages of the trademark license agreement including:
  - Identifying and vetting strategic partners;
  - Preparing and negotiating term sheets; and
  - Drafting and negotiating the license agreement.
- **Agreements With Third Parties Aimed At Use Of Intellectual Property.** Sometimes use of a trademark or other intellectual property involves working out a deal aimed at permitting use, securing rights, or settling a dispute. Brand & Branch artfully handles all aspects of these agreements, including:
  - Negotiating and drafting co-existence agreements so that multiple parties may use the same or similar mark;
  - Assigning or transferring ownership of intellectual property;
  - Negotiating settlement agreements and resolving disputes; and
  - Preparing publishing agreements and copyright licenses allowing use of creative material or generating a source of revenue.
- **Non-Disclosures And Other Business Agreements.** You need to keep your information confidential and yet you need to share information to collaborate and find partners. We will help you strike this balance with confidentiality agreements and other contracts designed to keep your business running and allow it to grow.

### **Packaging and Advertising.**

In the food, beverage, and cannabis industries, packaging and advertising define who you are. We will review your packaging, review your advertising, website, and all marketing material and counsel you and guide you on how to avoid common pitfalls.

- We review and advise on food, beverage, and cannabis product packaging for compliance with local and federal laws and regulations.
- We review and advise on advertising and marketing materials for compliance with local and federal laws and regulations.



### **Internet, Communications, and Promotions.**

If you have an internet presence, we will ensure your compliance with federal and state privacy regulations. For example:

- We draft privacy policies, terms of use, and end-user license agreements;
- We audit websites for compliance with laws, privacy policy, and terms of use;
- We handle safe harbor registration;
- We provide advice regarding sending marketing emails, transmission of texts, and other communications regulated by local and federal laws; and
- We will work with you in developing promotional programs (contests, sweepstakes, etc.) and we provide all of the necessary legal documents like contest rules, influencer statements, and complaint language for endorsements.



## About Our Attorneys.

### **Shabnam Malek**

Shabnam Malek is a founding partner of Brand & Branch LLP. Shabnam advises clients on domestic and international trademark clearance, rights, registration, and enforcement. Shabnam also represents clients in disputes before the Trademark Trial and Appeal Board, develops worldwide expansion strategies, and negotiates and drafts agreements, including settlement agreements, co-existence agreements, trademark license agreements, and interstate license agreements.

In addition to trademark law, Shabnam practices promotions law, privacy law, and all things internet. Shabnam represents companies in various industries including cannabis, technology, gaming, furniture, retail, financial services, leisure and entertainment, and food and wine.

Prior to founding Brand & Branch, Shabnam was trademark counsel at Cobalt LLP and prior to that, an associate at O'Melveny & Myers, a large, international law firm. As a member of the intellectual property and technology practice, Shabnam prosecuted and defended trademark and trade secret cases in federal court.

Shabnam's professional affiliations include the International Trademark Association and California Bar Association (where she serves on committees), the American Civil Liberties Union, the National Lawyers Guild, and the Queen's Bench. Shabnam is also a founding board member and president of the National Cannabis Bar Association and a founding chair of the Bay Area Chapter of Women Grow.

She regularly speaks about intellectual property issues pertaining to the cannabis industry. Shabnam co-authored an article entitled, "Likelihood of Confusion – Three Areas of Uncertainty in Trademark Law" in the September/October 2010 issue of IP Litigator. Shabnam has been named a "Northern California Rising Star" three years in a row by Super Lawyers Magazine.

#### Education

- **University of San Francisco:** Bachelor of Arts, Communications and Electronic Media, 1997
- **University of San Francisco** School of Law: Juris Doctor, magna cum laude, 2005



## **Amanda Conley**

Amanda Conley is a founding partner at Brand & Branch LLP. Amanda has a diversified practice focused on intellectual property and legal issues in emerging technologies and in the cannabis industry, including trademark and copyright counseling, enforcement, and litigation; advising on privacy and data security practices; recovering domain names through Uniform Dispute Resolution Proceedings; and representing clients in district court litigation and before the Trademark Trial and Appeal Board.

Prior to founding Brand & Branch, Amanda was an associate at Cobalt LLP and prior to that, at O'Melveny & Myers, a large, international law firm. As a member of the intellectual property and technology practice, Amanda prosecuted and defended copyright, trademark, and false advertising claims in federal court, and defended clients in antitrust and consumer protection class action litigation.

Amanda has represented a variety of companies including large computer software and hardware companies, cannabis-infused edibles producers, start-ups focusing on technology, cannabis, home design, education, and gaming, and a major grocery store chain.

Amanda's professional affiliations include the International Trademark Association and California Bar Association. Amanda is also a founding board member and treasurer of the National Cannabis Bar Association. Amanda is a founding chair of the Bay Area Chapter of Women Grow.

Amanda regularly speaks on privacy and intellectual property issues and at cannabis industry conferences.

Before attending law school, Amanda worked as a statistician for the Institute of Behavioral Sciences in Boulder, Colorado. When not working, Amanda enjoys cooking, listening to audiobooks, rocking out at karaoke, and exploring the beautiful bay area with her wife and their dog, Gus.

### Education

- **Illinois Wesleyan University:** Bachelor of Arts, Psychology, 2004
- **University of Colorado at Boulder:** Master of Arts, Sociology, 2008
- **New York University School of Law:** Juris Doctor, 2011



## OUR FEES

Brand & Branch offers several standard and alternative fee arrangements including hourly billing, flat rates, project caps, and subscription models. The firm requires a standard, \$5,000 retainer from all new clients. We will bill from that amount until the retainer is exhausted and then bill you monthly thereafter. We will ask you to replenish this retainer at times, particularly when we take on a project that includes extensive filing fees.

Many clients ask how much they can expect to spend to protect their trademark. The answer varies greatly and depends on the [strength of the client's mark](#), how long they have been using the mark, [whether third parties claim rights in the same mark](#), and many other factors. In general, for a mark that does not face significant obstacles to registration, we estimate you will spend between \$3,500 and \$5,000 to get your trademark registered.

Our partners bill \$375 to \$425 hourly, and our associates bill \$275. We offer the following project-based rates:

Project	Fees (flat rates and caps available on all rates)
Preliminary clearance search	\$1000
Standard license agreement between related entities	Ranges from \$3,000-\$5,000
License agreement between unrelated entities and/or across state lines	Ranges from \$7,000 - \$12,000
Review and revise term sheet and letter of intent	Ranges from \$2,000-\$4,000
Packaging sales agreement	Ranges from \$2,000-\$3,000
Contest rules	Ranges from \$800 - \$8,000
Sweepstakes rules	Ranges from \$800 - \$5,000
Foreign trademark application	Depends on jurisdiction; all foreign counsel and foreign filing fees taken upfront
State trademark application	Depends on jurisdiction
Intellectual Property Disputes	Please contact us for more information