

## Curriculum Vitae of Brian M. Sowers

Applied Marketing Science, Inc.  
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Burlington, MA 01803  
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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	<ul style="list-style-type: none"><li>• Lead the firm's Litigation Support practice to support expert testimony in civil cases through survey research and other marketing science initiatives.</li><li>• Manage referrals and support affiliated academic experts in matters where consumer opinions and behaviors are an important determinant of liability and damages.</li><li>• 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).</li><li>• Assist attorneys with assessing the benefits of collecting market research data, critique opposing expert reports, and prepare experts for deposition and trial questioning.</li><li>• Provide expert research consultation, expert witness testimony, and rebuttal critiques for consumer surveys designed for trademark, trade dress, false advertising, and class action litigation.</li></ul>
2011 – 2014	Senior Manager APPLIED MARKETING SCIENCE, INC., Waltham, MA	<ul style="list-style-type: none"><li>• Supported consumer survey expert witnesses and attorneys in market research survey design and provided consultation to help experts prepare for deposition and trial testimony.</li><li>• Managed litigation consulting projects involving consumer surveys in trademark, false advertising, class action, and patent infringement matters.</li><li>• Coordinated all aspects of research project, including survey design, fieldwork, data analysis, and report development.</li></ul>

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 WORLD.COM, 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)

**Militia 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 Globberide, 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; 2024 Trial Testimony)

**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; 2025 Trial Testimony)

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 and Deposition)

**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 and Deposition)

**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 and Deposition)

**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 and Deposition; 2025 Trial Testimony)

**Adidas America, Inc. v Catapult Group International Ltd.**

TTAB Opposition No. 91265893  
Trademark Confusion (2024 Report)

**Dignity Health v Humana, Inc.**

TTAB Opposition No. 91274919  
Trademark Confusion (2024 Report)

**Sanford Airport Authority v Greater Orlando Aviation Authority**

Case No. 6:23-cv-01563, United States District Court, Middle District of Florida  
Secondary Meaning (2025 Report and Deposition)

**Federal Trade Commission and State of Connecticut v Chase Nissan LLC et al.**

Case No 3:24-cv-00012-JCH, United States District Court, District of Connecticut  
False Advertising (2025 Report and Deposition)

**Perfect Sports Inc. v Fitness Performance Inc.**

Court File No. T-3047-24, Federal Court, Ottawa, Ontario Canada  
Secondary Meaning (2025 Report and Deposition)

**7D Holdings, LLC v JAWK Holdings LLC et al..**

Case No 1:24-cv-00033-GNS-HBB, United States District Court, Western District of Kentucky  
Trademark Confusion (2025 Report and Deposition)

**Dubliner Inc. v East Coast Tavern Group, Inc. et al.**

Case No. 1:23-cv-10567-RGS, United States District Court, District of Massachusetts  
Trademark Confusion (2025 Report and Deposition)

**Alfwear, Inc. v Kule, LLC**

Case No. 2:23-cv-00412-JCB, United States District Court, District of Utah, Central Division  
Trademark Confusion (2025 Report and Deposition)

**Disney Enterprises, Inc. v Red Earth Group Limited**

Case No. 2:25-cv-06469, United States District Court, Central District of California  
Trademark Confusion (2025 Report)

**Credo Technology Group, Ltd. v Credo.AI Corp.**

Case No. 3:24-cv-02032, United States District Court, Northern District of California  
Trademark Confusion (2025 Report and Deposition)

**Chubby Gorilla, Inc.. v FH Packaging LLC**

Case No. 8:24-cv-00340-JVS-KES, United States District Court, Central District of California  
Secondary Meaning (2025 Report and Deposition)

**Federal Trade Commission v Doxo, Inc. et al.**

Case No 2:24-cv-00569, United States District Court, Western District of Washington  
False Advertising (2025 Report and Deposition)

**Adidas America, Inc. v Aviator Nation, Inc.**

Case No 3:24-cv-00740, United States District Court, District of Oregon  
Trademark Fame (2025 Report and Deposition)

**Aroma360 LLC and Hotel Collection LLC v Scentiment, LLC**

Case No 1:24-cv-25031, United States District Court, Southern District of Florida  
Secondary Meaning (2025 Report and Deposition)

**Environmental Democracy Project v Organic Basics**

Case No. CGC-23-608356, Superior Court of the State of California, County of San Francisco  
False Advertising (2025 Report and Deposition)

**easyGroup LTD v ER Travel, LLC**

Case No 0:24-cv-60638, United States District Court, Southern District of Florida  
Secondary Meaning (2025 Report and Deposition)

**Acella Pharmaceuticals, LLC v ANI Pharmaceuticals, Inc.**

Case No.: 0:24-CV-00774, United States District Court, District of Minnesota  
False Advertising (2025 Report)

## PUBLICATIONS

Chorn, J., Santana, M., & **Sowers, B.** (2020). Surveys in Lanham Act Matters. *IP Litigator*, 26(6), pp.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)

The Use of Survey Experts in False Advertising Matters  
(University of California, Irvine School of Law, January 2025)

Trademark Survey Dos and Don'ts  
(Boston Intellectual Property Association Symposium, April 2025)

The Consumer Perception Survey: When to Use Them and When to Conduct Them.  
(BakerHostetler ADventures in Law CLE Series, May 2025)

## 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- )