David Makman has been a member of the California Bar since 1995. He represents corporations in commercial litigation, in court, and/or arbitration. He specializes in cross-border disputes and has extensive experience with technology law, intellectual property law, and corporate governance disputes such as corporate divorces and breach of fiduciary duty claims.

### PROFESSIONAL HIGHLIGHTS

* Started firm in 2009 and have handled multi-million dollar technology and cross-border disputes.
* Arbitration award in a case where my client, a Japanese company, was sued for $50,000,000.00 in damages on breach

of fiduciary duty claims. The arbitrator ordered that the plaintiff pay almost a million dollars to my client.

* Part of the core IP litigation team that opened Howrey’s San Francisco office.
  1. On trial team for two jury trials, two binding arbitrations, and a contempt hearing during the six-year period at Howrey.
  2. Handled a full range of litigation issues, including developing litigation strategy, drafting and arguing motions, and presenting witnesses at trial.
* Published and commented on Japanese legal reforms in the areas of intellectual property and shareholder's rights.
  1. Presented the Japan section of a seminar on "Enforcing Patent Rights in Asia" for the Patent Resources Group
  2. Former Chairman of the Board of the Japan Society of Northern California.
* Featured on the cover of Los Angeles Lawyer in 1997, for article regarding intellectual property rights on the Internet.

### EXPERIENCE

* Attorney, THE LAW OFFICES OF DAVID A. MAKMAN, August 2009 to present.
* Counsel, HOWREY LLP, January 2003 to July 2009 (Associate, 2003-2005, Senior Associate 2005-2007)
* Associate, MORRISON & FOERSTER, LLP, July 2001 to December 2002
* Associate, FISH & NEAVE LLP, April 1997 to July 2001
* Associate LOEB & LOEB, LLP, September 1995 to March 1997

### Representative Litigation & Arbitration Matters

* Cross-border lawsuits and arbitrations involving Japan, including patent, trademark, and copyright, as well as several yakuza adjacent cases, product liability cases, corporate divorce cases, and most recently, whether AI software is illegally practicing law.
* Litigation regarding governance issues at a startup blockchain company that issued a $100 million ICO.
* Won lawsuit over Black Lives Matter art—the court found that the board of a start-up nonprofit had acted *ultra vires* and my client was given custody over the art.
* Resolved patent dispute relating to asphalt paving technology. Settled after the claim construction ruling came out in favor of my client.
* Handled “corporate divorce” where Plaintiff sued my client for alleged copyright infringement. After the preliminary injunction, negotiated a settlement where Plaintiff stipulated that my client, Defendant, actually authored the software and owned the copyright thereto.
* Developed and executed a strategy that led to an unenforceability ruling for four patents in favor of a Taiwanese defendant, thereby eliminating over 50 million dollars of claimed damages.
* Managed automotive software patent case (representing defendant), successfully avoided trial, and eliminated claims for over 20 million dollars.

***Non-legal Work Experience***

## Matrix Kabushiki Gaisha, 1988-1991 Tokyo, Japan

* Worked as an engineer doing marketing and technical support for AI, CAD, CASE, and Parallel Processing products.

***EDUCATION***

## Duke University School of Law Durham, NC

Juris Doctor, 1995

LLM, International and Comparative Law, 1995

## Oberlin College Oberlin, OH

Bachelor of Arts, East Asian Studies, minor in Computer Science, 1987

*Phi Beta Kappa,* Newton Prize for East Asian Studies

# PUBLICATIONS

*Changes in Corporate Governance are Having an Effect in Japan*. Special to the National Law Journal (Sept. 1, 2008).

*Japan Begins to Accept Shareholder Rights.* The Recorder (July 23, 2008).

*The Proper Role of Takeover Defense Measures in Light of Changes in Various Environments* (translation). METI Corporate Value Study Group (June 30, 2008).

*Shareholder Activism in Japan*. Securities Law 360 (March 3, 2008).

*A View from the Trenches: The Limited Impact of Grain Processing On Patent Litigation*, Mealey's Litigation Report (May 4, 2009).

*Recent Trends in Japanese IP and Antitrust Law*, Patent Resources Group (August 2009).

*The 2013 Symposium on Corporate Governance in Japan*, Hastings Business Law Journal (Winter 2015)

*Cross-Border Patent Disputes*, Hastings Business Law Journal (Summer 2019)

# NON-PROFIT EXPERIENCE

# Former Chairman of the Board of the Japan Society of Northern California

# Managed corporate governance programming for the society and helped develop consensus regarding the redirection of

# the organization in light of technological change.

# Current Board Member and Secretary of Momental Foundation

# The Foundation offers a training program to help postdocs who have technical degrees move out of academia and into tech startups.

# In addition to working on corporate governance issues, I helped develop and implement the foundation’s IP strategy.

# SPEAKING ENGAGEMENTS

# I have spoken at US and Japanese Law Schools including UC SF, Stanford, Berkeley, Chuo Law School, Keio Law School,

# Doshisha Law School, Osaka University.

**TEACHING EXPERIENCE**

Taught US Civil Procedure at Doshisha University Law School in 2010 and 2011.

Regularly provide internships to law students, recent graduates, and newly minted LLMs.

# ADMISSIONS

State Bar of California, December 1995 to present.

U.S. Court of Appeals for the Federal Circuit and Ninth Circuit.

U.S. District Court for the Northern, Central, Eastern, and Southern Districts of California, as well as the District Court for Colorado.

Supreme Court of the United States

Pro Tem Judge, Alameda County Court.

Finra Arbitrator

Fee Arbitrator for the Santa Clara Bar Association

# LANGUAGE SKILLS

Bilingual in English and Japanese. Speak, read, and write Japanese.

Former Officer, Japanese & English Bilingual Toastmasters’ Club, San Francisco.