



## Joel D. Bush

### Partner

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### Services

Cybersecurity, Privacy & Data  
Governance  
Litigation  
Trade Secrets

### Industries

Technology

Joel Bush concentrates his practice in the area of complex commercial litigation, with particular emphasis on information technology and software disputes, misappropriation of trade secrets, commercial contracts, business torts, restrictive covenant, and technology license disputes. Mr. Bush has litigated disputes arising out of computer hardware installations, software implementations, network design projects, and other technology implementations.

Mr. Bush has handled many disputes involving technology or software matters, including claims arising out of technology implementation projects for ERP, CRM, supply chain, data processing, inventory control, human resource automations, transportation automations, point of sale, logistics, demand response, and storage and systems management functionalities. He has represented both customers and vendors in these disputes, and with roughly equal experience on both sides.

Mr. Bush regularly represents software and technology companies in claims based on fraud, breach of contract, and negligence arising out of implementation problems, network design issues, software performance, and system compatibility problems. He has represented employers and employees in disputes arising out of restrictive covenant agreements. Mr. Bush routinely litigates trade secret disputes and he has particular experience in trade secret claims arising out of software development. Mr. Bush also represents commercial parties in contract, indemnity, and related claims. He has appeared in federal and state courts and is also experienced in arbitration.

Mr. Bush joined the firm in 1993. Mr. Bush has been recognized as a Georgia "Super Lawyer" in General Litigation by *Super Lawyers* magazine. He was recognized by *The Best Lawyers in America*® in 2017 and 2018 for Technology Law, in 2019 and 2020 for Information Technology Law, Intellectual Property Litigation, and Technology Law, and in 2021 for Commercial Litigation, Information Technology Law, Intellectual Property



Litigation, and Technology Law. Mr. Bush was recommended by *Legal 500 US* in 2015, 2016 and 2017 for Trade Secrets Litigation. He was named to *Georgia Trend's* "Legal Elite" in 2013 for General Practice and is AV<sup>®</sup> rated by Martindale-Hubbell.\*

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## Experience

Lead counsel for Consert Inc. in dispute arising out of software development agreement related to demand response technology in the energy sector. This case was styled *Itron, Inc., as successor in interest to SmartSynch, Inc. v. Consert Inc., Delaware Court of Chancery, C.A. No. 7720-VCL*, and the case settled favorably for Consert in February 2015 on the eve of trial.

Lead counsel for HMV Group, an entertainment retailer, in a dispute arising out of a software license agreement in the e-commerce area. After an arbitration proceeding the matter settled favorably.

Lead counsel for Manhattan Associates Inc., a supply chain management and logistics software company, in multiple matters, including software implementation disputes, license disputes, and breach of non-compete agreements.

Representation of medical insurance carrier in dispute with software vendor and system integrator arising out of system performance and software implementation failure.

Represented Compuware Corporation, a storage and systems management software company, in litigation related to software licensing and implementation project.

Represented Tory Burch LLC, an apparel and accessories retail company, in dispute involving claims against e-commerce technology platform provider.

Lead counsel for AirWatch, software vendor for mobile devices, in matter involving claims of misappropriation of trade secrets and unfair trade practices against AirWatch competitor. AirWatch alleged that competitor's employees, using false identities, masqueraded as potential "customer" in order to gain access to free trial of AirWatch software, subject to terms of End User License Agreement (EULA), in competitive espionage effort. The competitor moved to dismiss on the grounds that only AirWatch software source code could be protected as a trade secret, and that competitor's access to visible "output" of software, and software's "appearance and functionality," could not be protected as trade secret. The Court denied the motion to dismiss, finding that trade secret protection can apply if AirWatch "can show that it worked to preserve the secrecy of its programs



functions, specifications, and pricing,” such as through EULAs terms. *AirWatch LLC v. Mobile Iron Inc.*, Civil Action No. 1:12-cv-3571-JEC, 2013 WL 4757491 (N.D.G.A. Sept. 4, 2013).

Lead counsel for CareLogistics in dispute involving contract and business tort claims concerning implementation of ERP-like applications related to patient flow and care coordination in a hospital network in Ohio. This case was styled *CareLogistics, LLC v. Catholic Health Partners, et al.*, United States District Court for the Northern District of Georgia, Civil Action File No. 1:13-CV-1929-WBH before a referral to arbitration.

Represented Siemens Automation & Energy, a software company providing electrical, engineering and automation solutions in the energy, industrial manufacturing, and construction industries, related to a software license dispute.

Litigation counsel for Sterling Commerce (an affiliate of IBM) in dispute arising out of software license and implementation agreements.

Lead counsel for B&L Tech Company Inc. (B&L), formerly known as StatSignal Systems Inc. (SSI), a mesh wireless networking systems and applications company, in connection with the defense of an alleged breach of "right of first offer" obligation purportedly contained in a series of complex patent licensing agreements. Facing a substantial damage claim, B&L filed six separate motions for summary judgment. The court granted five of B&L's motions for summary judgment. Plaintiffs' right of first offer claim against B&L and plaintiffs' extraordinarily high damage claim against B&L were fully dismissed from the case. *IPCO, LLC, et al., v. Cellnet Technology, Inc., et al.*, 660 F. Supp. 2d 1351 (N.D. Ga. 2009).

Represented a Georgia-based non-profit organization in fraud claims against large ERP software vendor. Successful settlement after mediation.

Served as lead counsel for a Georgia-based software developer in a factually complex theft of trade secrets case involving the copying and misappropriation of source code files relating to the email attachment viewing technology used in handheld devices. Suit was filed on behalf of software developer alleging claims against competitors, and former executives of competitor for misappropriation of trade secrets, breach of contract, and other claims. The case settled for a confidential amount shortly before a three-week trial was scheduled to begin.

## **Education**

University of Virginia School of Law, J.D. (1993)

Emory University, B.A., English and Political Science (1986) *summa cum laude*



## Admissions

Georgia (1994)

District of Columbia (1995)

## Insights

### Webinars

Current Trends and Developments in Trade Secret Law for In-House Counsel

October 14, 2020

### News Releases

Record-Breaking Recognition for Kilpatrick Townsend in *The Best Lawyers in America*® 2021

August 20, 2020

### News Releases

Kilpatrick Townsend Attorneys Named 2020 Georgia Super Lawyers

March 6, 2020

### News Releases

Record-Breaking Recognition for Kilpatrick Townsend in *The Best Lawyers in America*® 2020

August 15, 2019

### News Releases

Kilpatrick Townsend Achieves Recognition for 2019 Georgia Super Lawyers

February 28, 2019

### In The News

Record-Breaking Recognition for Kilpatrick Townsend in *The Best Lawyers in America*® 2019

August 20, 2018

### Publications

Companies Begin To Protect Their Key Assets

April 24, 2018

### News Releases

Kilpatrick Townsend Once Again Achieves Recognition for 2018 Georgia Super Lawyers



February 28, 2018

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Kilpatrick Townsend Recognized by Prestigious 2017 Legal 500 US

October 2, 2017

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Record-Breaking Recognition for Kilpatrick Townsend in The Best Lawyers in America® 2018

August 15, 2017

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Kilpatrick Townsend Once Again Achieves Recognition for 2017 Georgia Super Lawyers

February 28, 2017

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Kilpatrick Townsend Earns Record-Breaking Recognition in Annual Best Lawyers in America 2017

August 16, 2016

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Kilpatrick Townsend Recognized by Prestigious 2016 Legal 500 US

June 20, 2016

[Alerts](#)

A Few Highlights From The Newly-Enacted Federal Defend Trade Secrets Act

May 18, 2016

[In The News](#)

Kilpatrick Townsend's Media Report August 7-13, 2015

August 14, 2015

[Publications](#)

Protecting Your Trade Secrets: Best Practices for Securing Information With New and Departing Employees

August 11, 2015

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Kilpatrick Townsend Recognized by Prestigious 2015 Legal 500 US

July 15, 2015

[News Releases](#)

Kilpatrick Townsend's Joel Bush and John Moye Featured Speakers at ACC Legal Quick Hit Webinar

April 7, 2015

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Kilpatrick Townsend Once Again Achieves Recognition for 2015 Georgia Super Lawyers

February 26, 2015