

# Intellectual Property Litigation

## Overview

Our world-class intellectual property litigators and appellate attorneys represent clients in venues where intellectual property cases are most often litigated, including the Middle and Southern Districts of Florida, the District of Delaware, the Southern and Eastern Districts of New York, the Eastern District of Texas, the U.S. Court of Appeals for the Federal Circuit, the U.S. Court of Federal Claims, the U.S. International Trade Commission, the Patent Trial and Appeal Board, and the Trademark Trial and Appeal Board.

Our team has first-chaired seminal cases that have changed the intellectual property landscape. And our deep industry experience in high technology, financial services and insurance, media and digital media, entertainment, software, medical devices, pharmaceuticals, telecommunications, construction, and other fields makes every case we litigate more efficient.

Our lawyers have many years of experience with preliminary injunctions, summary judgments, contempt actions against infringers, arbitrations, and the resolution of disputes through civil and criminal proceedings. The firm's trial and appellate lawyers represent clients in matters involving technology, trademarks and trade dress, patents, copyrights, misappropriation of trade secrets, and related intellectual property matters.

We apply our deep knowledge and experience in traditional intellectual property litigation to the vast range of issues arising from our clients' use of the internet and other technologies, including claims arising from online trademark, patent, and copyright infringement; cybersquatting, typosquatting, and other types of domain name disputes; actions arising from digital defamation and other types of libel; actions related to software licensing and other technology transactions; and proceedings implicating statutory or common law rights of privacy and publicity.

Our team regularly handles disputes involving:

- Patent infringement
- Trademark and branding litigation
  - TTAB opposition and cancellation proceedings
- Copyright litigation and counseling
- Internet and social media
- Entertainment
- Advertising and promotions

- Pharmaceutical and life sciences
  - Abbreviated new drug applications (ANDA), biosimilars and follow-on biologics, biotechnology
- Data security and privacy
- Digital Millennium Copyright Act
- PTAB post-grant review proceedings
  - Inter partes reviews, post-grant reviews, and covered business method reviews
- USITC Section 337 proceedings
- Trade secrets and related litigation
  - Defend Trade Secrets Act; Computer Fraud and Abuse Act; Stored Communications Act; Electronic Communications Privacy Act; Economic Espionage Act; and various state uniform trade secret acts, unfair and deceptive trade practices statutes, and computer hacking and privacy statutes
- Internet Corporation for Assigned Names and Numbers (ICANN) domain disputes
  - Uniform Domain-Name Dispute-Resolution Policy (UDRP), Uniform Rapid Suspension System (URS), cybersquatting
- Commercial disputes and unfair competition
- Restrictive covenant enforcement

## Patent Litigation

We have litigated cases related to medical operating tools, skin grafts, patient monitoring equipment, antioxidants, medical testing equipment and products, biotechnology, computer vision, video compression, semiconductor manufacturing and programming, computer software, telephone logging, Voice over Internet Protocol (VoIP), brewing, pharmaceuticals, food chemistry, protective clothing for chemical warfare, chemical processes, and simple mechanical products such as boat trailers, windsurfers, medical rubber gloves, and scissors. Our team includes the author of *Horwitz on Patent Litigation*, a three-volume treatise published by Matthew Bender/LexisNexis. We also handle Section 337 cases before the International Trade Commission, increasingly the forum of choice. This experience is critical to resolving these cases, as they proceed on expedited timelines. The Section 337 matters we have handled include one the press called the largest case of its time, and another that had the largest number of parties. Additionally, we practice before the U.S. Court of Appeals for the Federal Circuit, which hears all patent case appeals. Our appellate practice does not merely concentrate on appeals but also provides trial support so cases are tried with an eye toward preserving the win on appeal. In this capacity, we team with trial counsel (whether from our firm

## Trademark Litigation

Whether your issue is counterfeiting, infringement, or administrative oppositions, our trademark litigation team has the skills and knowledge to help you find effective solutions that protect your brand and your rights. Our extensive experience also covers the preliminary injunction motions that trademark litigation so commonly involves. Additionally, we handle all administrative actions before the Trademark Trial and Appeal Board, including ex parte appeals, inter partes oppositions, and cancellations, as well as UDRP actions before both the World Intellectual Property Organization and the National Arbitration Forum. We litigate trademark cases throughout the United States and have represented clients in trademark litigation and inter-party administrative proceedings in numerous countries around the world. We commonly handle trademark disputes both within the United States and in foreign countries. With a history of successful litigations in jurisdictions ranging from China, to Australia, to Germany, France, Spain, and the European Union, to Mexico, Canada, Paraguay, and Brazil, we have a wide range of experience that helps us find effective resolutions to trademark disputes both in the United States and abroad.

## False Advertising

Carlton Fields helps clients ensure that their advertising is accurate and defensible. We also litigate false advertising cases in court and arbitration forums, including the National Advertising Division of the Better Business Bureau. Our experience covers matters pending in United States and foreign forums and the representation of clients on both sides of the issue. Our clients benefit from our dedicated national class action team of more than 70 lawyers, which handles complex class actions throughout the country, at every state and federal court level, including the U.S. Supreme Court. We have defended hundreds of high-exposure class actions across substantive areas. In the false advertising arena, we have represented, for example, a food manufacturer in defense of a Florida Deceptive and Unfair Trade Practices Act putative class action arising out of the sale and advertisement of probiotic yogurt and challenges to the nutritional or health claims of the product; an energy drink manufacturer in class action litigation asserting claims for deceptive and unfair advertising and marketing; and a food manufacturer in a proposed consumer fraud class action regarding the use of the word “natural” in granola bar labeling and advertising. In addition to defending against claims of false advertising, and asserting these claims against competitors, our services include performing surveys to ensure that proposed advertising says what is intended and supervising technical testing to ensure substantiation of advertising claims, including claim substantiation work for local and worldwide advertising launches.

## Trade Secrets / Noncompete Litigation

We help clients protect trade secrets and litigate claims regarding breach of restrictive covenants and fiduciary duties, unfair and deceptive trade practices, and violations of various computer and

data security laws. Due to the multifaceted nature of this practice, we rely on our team's extensive experience in intellectual property, labor and employment, and litigation. Read more about our capabilities in [trade secrets and noncompete litigation](#).

## Experience

- Obtained an order of contempt in favor of a publicly held electronics manufacturer against a competitor who was sued for patent and trademark infringement.
- Obtained injunctive relief for a national appliance and furniture retailer to prevent the unauthorized use of its service mark.
- Obtained an advantageous settlement of a computer software reverse engineering dispute involving claims of copyright infringement, misappropriation of trade secrets, and breach of contract.
- Refuted allegations of trade secret misappropriation without litigation on behalf of an advanced technology corporation that manufactures contact image sensors for scanners, copiers, and fax machines.
- Represented a National Hockey League franchise in a service mark cancellation proceeding before the U.S. Patent and Trademark Appeals Board.
- Obtained injunctive relief and an ex parte order for a national hair products company directing the search and seizure by the U.S. Marshal of all counterfeit products bearing the protected trademark.
- Represented a major professional association before the U.S. Supreme Court as amicus curiae in a landmark patent infringement case.
- Obtained dismissal of internet-related patent infringement actions brought by a plaintiff against seven major supermarket chains.
- Obtaining a record verdict and award of attorneys' fees while representing a major music licensing organization in numerous copyright enforcement actions against infringers.
- Successfully defended an international telecommunications corporation against claims of misappropriation of trade secrets and defamation of title to patent rights, including a two-and-a-half-week jury trial.

- Defended a publisher of computer software and asserted a counterclaim against the author, and obtained summary judgment declaring that the publisher had exclusive computer software rights to all of the author's works.
- Successfully defended medical equipment manufacturers and distributors against patent infringement claims.

## Our Team

### Key Contacts



Eleanor M. Yost

SHAREHOLDER

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### Additional Members



Joan K. Archer

OF COUNSEL

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Los Angeles

☎ [310.843.6376](tel:310.843.6376)



William Giltinan

SHAREHOLDER

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Tampa

☎ [813.229.4241](tel:813.229.4241)



Ethan Horwitz

SHAREHOLDER

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New York

📞 [212.380.9617](tel:212.380.9617)



Ahmed-Zayn Mohamed

STAFF ATTORNEY

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Tampa

📞 [813.229.4113](tel:813.229.4113)



Gail Podolsky

SHAREHOLDER

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Atlanta

📞 404.815.2714



J. Coy Stull

OF COUNSEL

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Tampa

📞 813.229.4120

## Related Capabilities

### Practices

- Banking, Commercial, and Consumer Finance
- Construction
- Health Care
- Real Estate
- Mass Tort and Product Liability
- Technology
- Trade Secrets / Noncompete Litigation and Consulting
- Cybersecurity and Privacy

### Industries

- Banking, Commercial, and Consumer Finance
- Construction
- Health Care
- Real Estate
- Technology

