

# Telecom: Litigation and Arbitration

## Overview

When our clients face litigation, they benefit from our telecommunications industry knowledge — it means we waste no resources getting “up to speed” on the industry’s particularities.

Our comprehensive experience in federal and state courts across the country includes class action defense, dealer litigation, employment cases, consumer claims, cell site disputes, antitrust litigation, landlord-tenant disputes, zoning and permitting disputes, interconnection claims, condemnation proceedings, bankruptcy, and securities litigation.

## Class Action Defense

Telecommunications companies have been frequent class action targets since the 1990s. From the beginning, we have helped telecommunications clients defend against those claims, drawing on our institutional knowledge and experience as a leading national class action defense firm. We are one of only a handful of firms that have actually tried major class action cases. In addition, we are frequently retained to manage or coordinate a company’s overall response to multidistrict litigation.

### **Representative Matters**

- Defended large national wireless service provider in nationwide consumer class action.
- Represented telecommunications service provider and communications equipment manufacturer in seeking redress for alleged overcharges of LCD screens in multidistrict litigation matter.
- Represented a cable company, defeating attempted class action shareholder lawsuit to set aside \$1.5 billion merger transaction.

## Intellectual Property

We represent telecommunications industry clients in a broad range of patent, trademark, and copyright litigation, always working to ensure that lawsuits do not hinder their ability to conduct business and generate revenue. We defend clients against lawsuits filed across the country, and initiate litigation when their intellectual property rights are infringed.

In addition, we help clients identify domain names with active websites that may be infringing registered trademarks, particularly websites that offer prepaid cellular plans and phones. We send cease-and-desist letters to the registrants of all identified domain names (both domestic and international). If further action is required to shut down those websites, we weigh whether to file a cybersquatting and trademark infringement action in the U.S. district courts, or follow the Uniform Domain-Name Dispute-Resolution Policy under ICANN to have the domains transferred to our client.

### **Representative Matters**

- Represented the largest prepaid cellular provider in a trademark dispute and obtained a settlement for our client.
- Represented several major cell phone providers in trademark and unfair competition disputes, including a judgment order that resulted in permanent injunctive relief; substantial monetary damages; enhanced monetary damages; and a finding of an exceptional case to include an award of attorneys' fees.
- Defended an international telecommunications corporation against claims of misappropriation of trade secrets and defamation of title to patent rights; representation included a two-and-a-half-week jury trial.
- Obtained orders of contempt in trademark and patent infringement suits for various clients, including electronics manufacturer and telecommunications company.

### **Trial Support and Appeals**

We handle the full range of appellate matters (e.g., civil, administrative, and criminal appeals) for clients that operate in a wide variety of industries, including telecommunications. Our national appellate practice and trial support group includes lawyers who have briefed and argued cases before the U.S. Supreme Court, nearly every federal appellate court, and in the state courts of more than 30 states.

In addition, we provide trial support, often teaming with trial counsel (whether from our firm or another) to provide services including preparing and arguing dispositive legal motions, and helping to preserve the record for appeal.

## **Representative Matters**

- Representing major cell phone carrier in cell tower litigation and on appeal.

## **Wireless Handset Trafficking, Fraud, and Theft**

We have a proven track record of saving our clients hundreds of millions of dollars in fraud losses by stopping and pursuing perpetrators of various schemes targeting telecommunications companies, including handset trafficking and subsidy theft, activation fraud, identity theft, dealer fraud, employee misconduct, and equipment theft.

Since 2005, our attorneys have led a nationwide effort to stop handset trafficking and subsidy theft on behalf of our wireless industry clients. We helped our clients build multifaceted anti-trafficking programs that include undercover investigations, litigation, modifications to our clients' customer terms and conditions of service, working with handset manufacturers to improve the technological impediments to reflashing, implementing point of sale restrictions, and collaborating with law enforcement authorities, in-house security teams, and private investigators to pursue and prosecute traffickers.

Our efforts have solved a significant problem for our clients by stemming their losses from this fraud and restoring hundreds of millions of dollars to their bottom lines. Additionally, we work with industry groups and government officials to craft legislation and regulations that protect our clients by more definitively criminalizing the conduct of bulk traffickers and unlockers.

## **Representative Matters**

- Helped three of the largest national wireless companies build cross-functional teams to combat handset trafficking and subsidy theft.
- Obtained 182 final judgments and permanent injunctions against 485 wireless phone traffickers on behalf of four of the largest national wireless service providers, resulting in awards of more than \$550 million in damages by federal courts across the country, including in Texas, New York, California, Michigan, Florida, Pennsylvania, Georgia, New Jersey, Illinois, Virginia, Arizona, Washington, Idaho, and Oklahoma.

## **Employment Litigation and Consulting**

Carlton Fields represents employers of all sizes in all types of employment disputes, including state and federal court actions, administrative charges and hearings, arbitrations, class and

collective actions, and informal mediations.

We also draft employment policies and provide advice on employment practices, including on hiring and termination issues.

### **Representative Matters**

- Represented prepaid wireless service provider in litigation and arbitration involving wage, discrimination, wrongful and other employment-related termination claims.

## Telemarketing Litigation and Consulting

We defend corporate clients, including telecommunications firms, against individual and class action lawsuits arising from alleged violations of the Telephone Consumer Protection Act (TCPA). Learn more about our [TCPA](#) practice.

## Subpoena, Court Interception Orders, and CALEA Compliance

Many of our telecommunications clients receive high volumes of subpoenas and court orders seeking access to customer records and communications. The laws governing these issues can be a minefield for telecommunications providers, who must balance providing appropriate and lawful access to law enforcement with protecting their customers' privacy rights. While the federal telecommunications act and regulations require carriers to protect customer proprietary network information, federal and state wiretap laws, including the federal Electronic Communications Privacy Act, require them to disclose that information when presented with appropriate legal process.

These issues are compounded by the secrecy requirements imposed on certain requests pursuant to the Foreign Intelligence Surveillance Act. The way in which telecommunications providers must deliver the information to law enforcement is detailed in the requirements of the federal Communications Assistance to Law Enforcement Act (CALEA), which imposes fines of up to \$10,000 per day on noncompliant carriers. These issues garner significant attention from the press, legislators, and regulators, further complicating the risks for service providers.

Carlton Fields lawyers have decades of experience helping telecommunications carriers navigate these issues. We help clients develop compliance policies and prepare guidelines and manuals for their employees to follow. We are available 24/7 to advise on responding to exigent circumstance requests and deal with law enforcement officers and prosecutors who sometimes require an immediate response. We provide training to our clients' employees and to law enforcement officers on our clients' behalf to ensure our compliance with the law and minimize

risk. We also represent telecommunications clients in court on disputes related to their subpoena, court order, and wiretap compliance.

## Insights

03.22.2019

First SIM-Swap Conviction: What's the Message for Mobile Providers?

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12.03.2015

Will the UK's Scrutiny of Insurers' Use of Big Data Impact US Regulators?

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## Our Team

### Key Contacts



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## Related Practices

- Antitrust and Trade Regulation
- Appellate & Trial Support
- Business Transactions
- Cybersecurity and Privacy
- Government Law & Consulting
- Intellectual Property
- Labor & Employment



- Litigation and Trials
- Tax
- Real Estate
- Telecom: Transactions
- Telecommunications
- Telephone Consumer Protection Act
- White Collar Crime & Government Investigations
- Class Actions

## Related Industries

- Real Estate
- Securities & Investment Companies
- Telecommunications