



# Harvey W. Geller

SHAREHOLDER

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## Overview

Harvey Geller has more than three decades of experience handling complex business litigation matters. He has extensive experience in intellectual property, technology, internet, digital media, and entertainment matters, and has been at the forefront in developing and shaping new media and internet law in the United States. He litigated the landmark cases against *MP3.com*, *Napster*, *Aimster*, *Grokster*, *LimeWire*, and *Grooveshark*, in addition to the industry-leading cases involving the Digital Millennium Copyright Act. Harvey also litigated the groundbreaking case against Napster's investors, the seminal trademark and First Amendment case concerning the trade name "Barbie," and led the multijurisdiction common law copyright class actions brought by Flo & Eddie (The Turtles) against Sirius XM Radio Inc. and Pandora Media Inc.

His experience extends well beyond entertainment, new media, and intellectual property matters and includes antitrust, business torts, insurance, contract disputes, accounting and royalty disputes, employment, product liability, and personal injury. He has litigated on behalf of plaintiffs and defendants in state and federal courts around the country and is experienced in all aspects of litigation, including trials, appeals, and class actions.

Harvey has been recognized by the *Los Angeles Daily Journal* as one of the 100 Top Entertainment Lawyers and 50 Top IP Lawyers, by *Hollywood Reporter* as one of Hollywood's Power Lawyers, and by *Billboard Magazine* as one of the top five Music Litigation Attorneys.

For 17 years, Harvey was deputy general counsel and head of litigation for the Universal Music Group, one of the largest entertainment companies in the world. Prior to that he was a partner with a leading midsize general practice law firm in Los Angeles.

## Experience

### Litigation

- *Office Depot, Inc. v. AIG Specialty Ins. Co.*, No. 2:15-cv-02416, 2016 WL 6106408 (C.D. Cal. June 6, 2016). Obtained judgment in favor of media liability insurer holding that insurer had no duty to reimburse \$15 million in defense expenses or to indemnify \$77.5 million settlement of a whistleblower suit. The court found that section 533 of the California Insurance Code precluded any duty to defend or indemnify the qui tam lawsuit alleging violations of the California False Claims Act.
- *UMG v. MySpace*; *UMG v. Grouper*; *UMG v. DivX*; *UMG v. Veoh*. First copyright infringement actions involving the scope of the DMCA safe harbors filed against social networking sites.
- *MGM v. Grokster*. Copyright infringement action involving P2P file-sharing service which resulted in seminal U.S. Supreme Court decision establishing claim for inducement of copyright infringement.

- *UMG Recordings, Inc. v. Bertelsmann; UMG v. Hummer Winblad Venture Partners*. Copyright infringement actions brought against investors in Napster after Napster filed for bankruptcy. Case established law for pursuing investors and resulted in significant settlements.
- *A&M v. Napster*. First contributory and vicarious copyright infringement action involving P2P file-sharing service. Resulted in influential Ninth Circuit decision.
- *Arista v. LimeWire*. Contributory and vicarious infringement action involving biggest P2P file-sharing service. Settled during trial for one of largest copyright settlements in history.
- *Flo & Eddie v. Sirius XM*. Multiple class action litigations establishing performance right in pre-1972 recordings in California, New York, and Florida.
- *Flo & Eddie v. Pandora Media*. Class action litigation establishing performance right in pre-1972 recordings in California.
- *Mattel v. MCA*. Defended trademark and dilution claims concerning the name “Barbie.” Obtained summary judgment, which was affirmed on appeal by Ninth Circuit in major trademark and First Amendment decision.
- *UMG Recordings v. MP3.com*. Direct copyright infringement action involving the creation of a database of 80,000 recordings. Obtained summary judgment on liability and \$53 million judgment after damages trial.
- *In re Minimum Advertised Price Litigation*. Defended against antitrust class actions brought by attorneys general in 42 states and private consumers alleging vertical and horizontal agreements in connection with minimum advertising price policies.
- *In re CD Antitrust Litigation*. Defended against antitrust class actions brought by retailers and consumers alleging horizontal agreement with respect to CD pricing.
- *Federal Trade Commission v. Polygram*. Defended against price-fixing action brought by FTC with respect to Three Tenors recordings.
- *Lemelson Foundation v. Universal*. Defended against patent dispute regarding vision technology used in the manufacture of CDs.
- *Project Hubcap*. Created one of the largest nationwide anti-piracy enforcement efforts, which resulted in thousands of lawsuits against individual users of P2P services.
- *Lee v. Decca*. Defended against class action brought by recording artists with respect to royalty payments.
- *HLC v. MCA*. Defended against royalty claims brought by Bing Crosby's heirs. Case resulted in significant California Supreme Court decision defining the scope of the attorney-client privilege.
- *MCA v. Sehorn*. Unfair competition action involving 25,000 pre-1972 recordings. Case won at trial and affirmed on appeal.
- *Steiner v. ABC*. Copyright infringement class action involving thousands of songs used in soap operas. Case resulted in \$65 million settlement.
- *TVT v. IDJ*. Defended against interference claims. Adverse trial judgment of \$132 million successfully reversed on appeal in Second Circuit.

### **Government Investigations**

- New York Attorney General Investigation
  - Handled investigation regarding compliance with the “payola” laws.
- Department of Justice Online Investigation
  - Handled investigation regarding online activities.
- Federal Trade Commission COPPA Investigation

- Handled investigation regarding compliance with COPPA.
- Federal Trade Commission Violence Investigation
  - Handled investigation into whether recorded music companies market violence to children.
- Murder Inc. Investigation
  - Handled investigation regarding potential money laundering activities.

## All Insights

07.11.2019      Court Finds No Coverage for False Claims Act Suit

## All News

02.14.2020      The Long View: Carlton Fields is a One-Stop Shop for Companies Looking to Capitalize on Growth Markets

02.15.2018      Seven Carlton Fields Attorneys Elected to Shareholder

## Recognition

- 50 Top IP Lawyers, *Los Angeles Daily Journal* (2015, 2016)
- Power Lawyers, Hollywood's Top 100 Attorneys, *Hollywood Reporter* (2015)
- Top 5 Music Litigation Attorney, *Billboard Magazine* (2015)
- 100 Top Entertainment Lawyers, *Los Angeles Daily Journal* (2014)

## Professional & Community Involvement

- City of Hope, Music and Entertainment Industry
  - Executive Committee (1997–present)
- Judge Pro Tem, Los Angeles Municipal Court (1997–1999)

## Credentials

### EDUCATION

- Loyola Law School (J.D., 1985)

### COURT ADMISSIONS

- U.S. District Court, Central District of California
- California State Courts

### BAR ADMISSIONS

- California

## Background

- Of Counsel, Gradstein & Marzano, Los Angeles, CA (2014–2016)
- Of Counsel, Steptoe & Johnson LLP, Los Angeles, CA (2012–2013)
- Deputy General Counsel, SVP Business and Legal Affairs, Universal Music Group, Los Angeles, CA (1995–2012)
- Partner, Mitchell Silberberg & Knupp LLP, Los Angeles, CA (1987–1995)

## Areas of Focus

### PRACTICES

- Appellate & Trial Support
- Class Actions
- Intellectual Property
- Litigation and Trials
- Technology