



## **ELLENOFF GROSSMAN & SCHOLE LLP**

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### **Intellectual Property Litigation**

The Firm's intellectual property attorneys have considerable experience representing clients in all phases of intellectual property disputes, from investigating possible infringement claims and preparing or responding to cease and desist letters, through all stages of litigation, including filing motions requesting or defending against requests for injunctions, discovery, trials, and appeals. The Firm's intellectual property litigators also have experience with arbitrations and mediations involving disputes over intellectual property rights. The Firm's intellectual property litigation practice is particularly focused in the areas of patents, trademarks, trade dress, copyrights, unfair competition, false advertising, domain names, and anti-counterfeiting.

The intellectual property attorneys in the Firm have represented clients in litigations from a broad range of industries including technology, computer software and hardware, consumer electronics, fashion and apparel, retail and wholesale, food and beverages, telecommunications, consumer products, cosmetics, pharmaceuticals, publishing, architectural designs, and e-commerce. The Firm's intellectual property litigation practice is nationwide in scope as we have represented clients in federal courts across the United States. We are also capable of utilizing our relationships with foreign intellectual property counsel who can assist with representing clients in intellectual property disputes in foreign jurisdictions.

## Patents

In addition to prosecuting patents, the Firm's patent and intellectual property attorneys have litigated numerous patent infringement matters for our clients. The firm has represented patent holders in enforcing their rights against third-party infringers, as well as defendants accused of infringing the patents of others. Our clients also routinely engage our patent attorneys to provide advice and opinions and clearances for goods and services they intend to bring to market, in order to avoid litigation and to identify potential technologies to protect. Below are descriptions of a few of the types of litigations the Firm's intellectual property attorneys have handled in the past:

- Represented an international consumer goods company in enforcement of its patent portfolio against a large publicly traded company, resulting in favorable settlement terms for our client.
- Represented a specialized computer hardware and software company in a dispute over patents related to its products core functionality.
- Represented an apparel company in enforcing its patents against numerous infringers.
- Represented an accessory company against claims of patent infringement brought by a major sports equipment company.
- Represented a manufacturer of LED lights from claims of patent infringement brought by an international lighting and electronics company.
- Represented consumer products company in patent infringement actions relating to over-the-counter home pregnancy tests. In one action, a \$14.6 million jury award was enhanced to \$29.2 million for a total award of more than \$38 million with interest. Another case resulted in a publicly reported settlement of \$18 million. Also defended a consumer products company in patent infringement actions relating to analog and digital home pregnancy tests.
- Successfully defended a distributor of hard gelatin capsules, against a major pharmaceutical company's claims of infringement of a patent directed to intricate locking mechanisms on the capsules. The Federal Circuit affirmed a summary judgment of noninfringement.

- Represented a patent portfolio licensor of inventions adopted in mobile phones and mobile media devices, in a complex patent litigation involving multiple patents alleging iPhones and iPads infringed several patents. A jury found infringement of patents relating to camera phone, call handling, and call rejection features.
- Represented a patent portfolio licensor in a complex patent infringement lawsuit against the Blackberry line of products.
- Successfully represented licensors of patents essential to practice the MPEG-2 and ATSC Standards in patent litigations against multiple infringers, including television sellers.
- Represented a major telecommunications company in litigations involving patent, trade secret, copyright, and related state law claims concerning optical cross-connects and other telecommunications network equipment.
- Represented client in fashion industry against patent infringement allegations involving apparel designs and manufacturing processes.
- Represented company selling accessories against infringement claims concerning its on-line sales platform.
- Represented clients in ANDA patent litigations involving pharmaceuticals for treating diabetes and a pharmaceutical for treating stomach and esophagus problems.
- Successfully represented an international telecommunications company in litigation asserting seven patents directed to restoration of network failures, resulting in dismissal of all claims. Represented client in patent and false advertising litigation concerning hair removal devices.
- Represented client in patent litigation involving network management software.
- Our firm's litigators also regularly advise investment companies on the strengths and weaknesses of potential patent litigations to guide investment decisions.

The Firm's litigators have also routinely represented clients before the Patent Trial and Appeal Board (PTAB), including filing appeals to office actions sustained by USPTO examiners and handling *ex parte* and *inter partes* reexamination of granted patents. Our Firm's attorneys have also supported a myriad of foreign counsel in enforcing and defending against patents internationally.

## Trademarks, Copyrights, and False Advertising

In addition to counseling clients on the adoption, use, and registration of trademarks and service marks, the Firm's intellectual property attorneys have experience in litigating trademark disputes and related claims under the federal Lanham Act and state trademark and unfair competition laws. Claims under these laws have included claims for trademark and service mark infringement, trademark dilution, counterfeiting, false designation of origin, false advertising, trade dress infringement, and state anti-dilution and unfair competition claims. The Firm's intellectual property attorneys also have extensive experience in prosecuting or defending against claims for copyright infringement. Below are descriptions of a few of the types of litigations the Firm's intellectual property attorneys have handled in the past:

- Represented an international beverage manufacturer in a trade dress dispute over the design of a unique and distinctive bottle;
- Represented apparel companies in filing claims for or defending against copyright infringement of fabric designs;
- Represented nationally recognized retailers in trademark, trade dress, and copyright infringement actions over ladies' handbags and accessories and children's products;
- Represented global consumer products companies in trademark counterfeiting and trade dress civil actions;
- Represented an architect in a copyright infringement action over the design of one of New York City's recently constructed landmark skyscrapers;
- Represented a global telecommunications company in trademark counterfeiting and infringement cases;
- Represented major publishing companies in trademark and copyright infringement actions;
- Represented seller of card game in trademark and copyright litigation;
- Represented post-trade financial services company providing clearing and settlement services as a central securities depository in litigation asserting trade secret misappropriation, antitrust, false advertising, tortious interference and other common law causes of action concerning a computer system for managing failed trades of mortgaged backed securities.

- Represented a technology company in copyright infringement actions concerning computer software and graphical user interfaces; and
- Represented a medical products company in a false advertising lawsuit resulting in a successful defense verdict after a three-week jury trial.
- Successfully represented seller of electric shavers in false advertising litigation against major shaving blade manufacturer; the client prevailed following a two-week bench trial.
- Successfully represented marketing and advertising firm in trademark litigation involving reverse confusion claims brought against a major multinational information technology company.

The Firm also regularly represents clients in opposition and cancellation proceedings before the United States Trademark Trial and Appeal Board (TTAB) at the United States Patent & Trademark Office (USPTO) and in connection with similar international opposition and cancellation proceedings through our relationships with foreign intellectual property counsel.

#### Domain Names

The Firm's intellectual property attorneys have also successfully represented clients in domain name disputes by recovering domain names registered by cybersquatters or domain name hijackers. We have handled proceedings under the Internet Corporation for Assigned Names and Numbers' (ICANN's) Uniform Domain Name Dispute Resolution Policy (UDRP). We have also represented clients in federal court lawsuits under the federal Anti-Cybersquatting Consumer Protection Act (ACPA), a statutory subsection of the federal Lanham Act governing trademarks and service marks. Some examples of successful domain name disputes our intellectual property attorneys have handled in the past include:

- Recovering a domain name through a UDRP proceeding on behalf of a leading manufacturer of women's swimwear;
- Recovering a domain name through a UDRP proceeding on behalf of an entertainment industry trade association; and
- Recovering a domain name on behalf of a major publishing company in a trademark infringement and anti-cybersquatting lawsuit.

## THE INTELLECTUAL PROPERTY PRACTICE GROUP

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