

Rocket, Satellite and Aerospace Litigation

We have broad experience litigating and arbitrating all types of disputes in the aerospace industry, including disputes emanating from the design, development, and manufacturing of satellites and rockets as well as satellite launches and operations. We also have broad experience arbitrating disputes between satellite owners and lessees. We are intimately familiar with the typical terms and provisions of complex contracts that drive these activities and from which many legal disputes arise.

Many aerospace disputes involve claims of patent infringement and trade secret misappropriation. These often involve complex technology. No technology is too complicated for our lawyers. Over 125 of our lawyers have engineering or hard science degrees. A number of our lawyers have degrees in aerospace engineering. One of our lawyers was an operations analyst for Rockwell International, responsible for the design of fuel consumption algorithms for the airborne laser. Another one of our lawyers, a former Air Force Officer, worked with the Air Force's Global Positioning System (GPS) program on long range design and planning issues and was the military officer in charge of organizing and overseeing independent review boards for all satellite projects under the purview of the Air Force Space and Missile Systems Center.

We have worked with all types of highly technical documents generated by the satellite/aerospace industry, including technical specifications and requirements, preliminary and critical design reviews, integration and test plans, space qualification documents, material review board minutes and documentation, non-conformance reports related to the manufacturing process, discrepancy review board minutes and documents, action items and closure documentation, documentation related to satellite performance (e.g., satellite telemetry data) and documentation generated in anomaly investigations.

RECENT REPRESENTATIONS

- We represented **ViaSat, Inc.**, a company that develops and designs satellites, in a patent infringement and breach of contract suit against Space Systems Loral ("SSL"). The jury found ViaSat's asserted patents valid. The jury also found that SSL infringed the asserted patents and breached its contractual obligations to ViaSat by improperly using and disclosing ViaSat proprietary information to manufacture a competitive satellite for Hughes Network Systems. The jury's findings on liability were affirmed by the District Court. Thereafter, the parties entered into a global settlement on terms favorable to ViaSat, including \$100 million in cash.
- We achieved the complete abandonment of an investigation by the Justice Department into claims potentially valued at more than half billion dollars against a **major U.S. aerospace and defense contractor**. We were engaged midway through a seven year investigation after the U.S. government had contended that the

contractor was negligent and had committed violations of the False Claims Act amounting to potentially more than \$600 million in damages. After multiple presentations by our attorneys arguing that the government's case was not supportable under the False Claims Act, government contract regulations or negligence law, the government decided to drop the investigation without taking any action.

- We represented **Virgin Galactic, LLC** in a AAA Arbitration against a former employee who started a competing small satellite rocket propulsion company using Virgin Galactic trade secret information and in violation of contractual and fiduciary duties owed to Virgin Galactic. Using forensic evidence, we were able to establish that our adversary engaged in severe evidence spoliation and ultimately obtained an order for “terminating sanctions,” conclusively finding that the employee had misappropriated Virgin Galactic’s trade secrets and violated his duties to Virgin Galactic.
- We represented **Northrop Grumman** in a trade secret and copyright suit filed in the Central District of California relating to software used in our client’s unmanned aerial vehicles (UAVs). After we secured discovery sanctions against the plaintiff, and pending the court’s ruling on our summary judgment motion, the plaintiff dismissed its case with prejudice.
- We represented **Solus Alternative Asset Management LP**, a lender to, and one of the largest stakeholders of, **TerreStar Corporation, LLC** (“TSC”), in connection with TSC’s chapter 11 bankruptcy proceedings. TSC was the indirect owner of 1.4 GHz terrestrial spectrum pursuant to 64 FCC licenses, and was seeking to reorganize around these spectrum rights.
- We represented **Northrop Grumman** in a \$132 million lawsuit alleging fraud, negligent misrepresentation and breach of contract arising out of the manufacture of solar arrays for satellites.
- We represented **Sukhoi**, the largest manufacturer of Russian jets, in a trade secret suit brought in the Southern District of New York by the designer of the interior of the fuselage. We defeated a motion for preliminary injunction and obtained a dismissal of the case.
- We represented **DIRECTV** in obtaining summary judgment on antitrust claims under the Cartwright Act brought by Basic Your Best Buy, a terminated retailer. Summary judgment was affirmed on appeal. The Plaintiff alleged that DIRECTV entered into a horizontal conspiracy with its other retailers through coercion not to bid on Basic’s sales leads so that DIRECTV could acquire them at a below market price. We successfully argued that DIRECTV’s restrictions on its retailers were vertical restraints on intrabrand competition subject to the rule of reason and that Basic could not establish essential elements to prove its claim, including an anticompetitive purpose or effect, a relevant market, or antitrust injury. The Court of Appeal affirmed.

- We represented **DIRECTV**, obtaining a grant of certiorari from the United States Supreme Court on the propriety of classwide arbitration under the Federal Arbitration Act, reversing the California Court of Appeal. On remand from the United States Supreme Court, the California Court of Appeal held for the first time in a published decision that whether or not an arbitration agreement governed by the FAA permits classwide arbitration must be determined by the arbitrator, not the courts, reversing long-standing decisions under California law.
- We represented **DIRECTV** in a class action lawsuit alleging unfair business practices on the grounds that DIRECTV's conditional access smart cards did not comply with FCC regulations regarding Radio Frequency Interference. Obtained dismissal with prejudice on the grounds that the claims are preempted by the FCC and that the putative class had not sustained any injury in fact.
- We represented **DIRECTV** in a class action matter against claims of extortion and unfair business practices arising out of DIRECTV's anti-piracy campaign. The Court of Appeal affirmed the lower court's Order granting DIRECTV's anti-SLAPP motion and dismissed, with prejudice, the complaint. The Court of Appeal held that plaintiffs' claims do not seek to vindicate the public interest and are, therefore, not exempt under a recent amendment to the anti-SLAPP statute. The Court of Appeal also upheld an award of \$97,000 in attorneys' fees and awarded additional fees on appeal.
- We represented **DIRECTV** in a class action RICO matter involving DIRECTV's anti-piracy campaign. Obtained a published decision from the Ninth Circuit Court of Appeal upholding the dismissal, with prejudice, under the Noerr-Pennington doctrine, finding that pre-litigation demand letters are immune from liability even if they allegedly constitute fraud or extortion.
- We represented **DIRECTV** in a class action matter alleging violations of the Electronic Communications Privacy Act ("ECPA"). Obtained a published decision from the Ninth Circuit Court of Appeal affirming the dismissal of the complaint. In a case of first impression, the Court concluded that the ECPA did not permit liability for aiding and abetting or conspiracy to violate Section 2702 of the Act.
- We represented **DIRECTV** against claims of unfair business practices arising out of DIRECTV's policies relating to its Pay-Per-View programming. Obtained a complete defense award in a putative classwide arbitration.
- We represented **DIRECTV** against an individual trafficking illegal signal theft devices designed to decrypt and intercept satellite signals without authorization. Obtained a unanimous federal jury verdict finding 102 violations under the Digital Millennium Copyright Act, the Federal Communications Act, and the Electronic Privacy Communications Act resulting in millions of dollars in statutory damages.
- We represented **Loral** in its defense of a derivative lawsuit related to one of the first direct broadcast satellite permits.

- We represented **TRW** in an AAA arbitration filed by a supplier of application-specific integrated circuits, seeking damages for the termination of a contract for convenience.
- We represented **XM Satellite Radio** in a major international arbitration proceeding involving the question of insurance coverage for XM's two primary broadcast satellites, which had lost power at an accelerated rate because of a design flaw. The arbitration hearings were held in Washington D.C. before a panel of three arbitrators and the amount in dispute was \$117.6 million. We were successful in proving that both satellites had suffered a "constructive total loss," which was heavily disputed.
- We represented **Northrop Grumman** in a trade secret case related to a proprietary rocket engine technology, and defense against a related antitrust lawsuit in which the plaintiff alleged that Northrop Grumman monopolized the market for launch vehicles for space.
- We represented **Teledyne Industries** against a competitor's lawsuit alleging infringement of its aircraft-wiring patent.
- We represented **Space Imaging Corporation**, an operator of remote sensing imaging commercial satellite technology, in an ICC arbitration held in London, England, concerning the manufacture, design and operation of the company's remote sensing satellite and ground equipment.
- We represented **Santa Barbara Research Center of Hughes Aircraft** in a case involving theft of trade secrets in the "spy-in-the-sky" satellite arena.
- We represented a number of satellite manufacturers in disputes with the federal government relating to acquisition and performance disputes, including prosecuting and defending disputes before the Armed Services Board of Contract Appeals and the U.S. Claims Court.
- We represented **Space Systems/Loral** in a dispute with a launch services provider over the timing of a satellite launch.
- We represented **DIRECTV** in two separate consumer class actions in which the plaintiffs sued DIRECTV and the NBA, and DIRECTV and the NHL, alleging various antitrust violations, including vertical and horizontal price fixing, monopolization, and illegal restraint of trade, arising out of the sale and distribution of DIRECTV's NBA League Pass and DIRECTV's NHL Center Ice Programming Packages. The Southern District of California granted DIRECTV's motion to dismiss and stayed discovery granting leave to amend. The District Court then granted DIRECTV's Motion to Dismiss the Amended Complaint, this time with prejudice as to all claims.
- We represented a **major defense contractor** in a patent lawsuit related to fiber optic gyroscopes.

- We represented a **major defense contractor** accused of stealing trade secrets related to gauges that measure stress in rocket nozzles.
- We represented **an aerospace company** against a competitor's allegations that it misappropriated a \$50 million rocket design.
- We represented a **major manufacturer of jet engines** in an action for patent infringement and misappropriation of trade secrets concerning repair parts and methods.