

Entertainment and Media Litigation

SELECTED REPRESENTATIONS (PUBLICLY REPORTED)*

Advertising and Screen Credit

- *Locke and Perrine v. Sega of America, Inc. and Gearbox Software LLC* (N.D. Cal.): Through separate teams, successfully defended video game publisher **Sega** and video game developer **Gearbox Studios** in a consumer class action claiming that the *Aliens: Colonial Marines* video game's features and customer play experience were overstated in advertising and promotion. Defeated class certification and convinced plaintiffs to dismiss lawsuit.
- *Huizenga v. Time Warner Entertainment Co.* (L.A.S.C.): Defended **Warner Bros.** against claim that former L.A. Raiders team physician and writer of book "*You're Okay, It's Just A Bruise*" that he was entitled to screen credit on the Oliver Stone-directed motion picture *Any Given Sunday*.
- *Nansom v. Columbia Pictures Industries, Inc.*, (C.D. Cal.): Defended **Sony Pictures** against claim that a writer of an early screenplay based on *Spider-Man* comic books was entitled to screen credit on 2001 motion picture.
- *Rezec, et al. v. Sony Pictures Entertainment* (L.A.S.C.); *Morris v. Sony Corp. of America* (Palm Beach County, Florida); *Cohen v. Sony Pictures Entertainment* (Philadelphia County, Pennsylvania); *Consumer Justice Center, et al. v. Sony Pictures Entertainment* (L.A.S.C.): Represented **Sony Pictures** in false advertising/unfair business practice class actions arising from the use of endorsements in movie ads by film critic who did not work for indicated publication. We also defended Sony in connection with several related state attorneys general investigations and proceedings.
- *Brian Rector, et al. v. Sony Corp. of America, et al.* (L.A.S.C.): Prevailed on anti-SLAPP motion to dismiss class-action claims against **Sony Pictures** asserting that motion picture studios falsely advertised motion pictures by using critic endorsements without disclosing provision of preview screenings, "press junkets," and other supposed consideration. Obtained six-figure award of attorneys' fees.

Antitrust

- *Golden Boy Promotions LLC, et al. v. Alan Haymon, et al.* (C.D. Cal.): Successfully represented **Haymon Sports** and its CEO, **Alan Haymon**, in an antitrust action by Oscar De La Hoya and Golden Boy Promotions alleging that Haymon attempted to monopolize the market for promotion of championship-caliber boxers.
- *Best Buy, Inc. v. DirecTV* (Los Angeles Super. Ct.; Cal. Ct. App.): Successfully

represented **DIRECTV** on antitrust claims under the Cartwright Act brought by a retailer alleging that DIRECTV entered into a horizontal conspiracy with other retailers.

- *Garrison v. Warner Bros., et al.* (C.D. Cal.): Successfully represented **Warner Bros. and the other motion picture studios** against class action brought by thousands of high-level employees who claimed their compensation was “unconscionably” low and the product of an antitrust conspiracy among the industry’s major employers. Designated lead counsel after class certified. Obtained decertification and settled case on eve of hearing on motion for summary judgment.
- *Lipschutz v. AT&T, et al.* (C.D. Cal.): Successfully represented **Time Warner Cable** in nationwide, putative consumer antitrust class action against country’s cable television multiple system operators and affiliated ISPs. After prevailing on motion for class certification, settled case on terms favorable to clients.
- *In re Compact Disc Antitrust Litigation; Retzlaff v. BMG, et al* (California Judicial Council Coordination Proceeding No. 4123): Represented **Warner Music Group** in series of coordinated class actions over advertising and pricing issues for compact discs.

Financing, production and distribution

- *Danjaq LLC v. Sony Pictures Entertainment* (C.D. Cal): Obtained a preliminary injunction in favor of the producer and distributor of the **James Bond** motion pictures, affirmed on appeal, barring a competitor studio from creating a competing series of James Bond films.
- *Film Finances, Inc. v. Fortis Mediacom Finance, S.A.* (Arbitral panel of Independent Film & Television Alliance): Successfully represented **Film Finances** in an arbitration against Fortis Bank over the financing of Spike Lee’s film *Miracle of St. Anna*.
- *Romantics v. Activision Publishing, Inc.* (E.D. Mich. 2008): Successfully represented **Activision** in a lawsuit seeking to enjoin sales of its “Guitar Hero” videogame by members of the ‘80s rock band The Romantics.
- *21st Century Film Corp. v. Carolco Pictures, Inc.; Carolco Pictures, Inc., v. CPT Holdings, Inc.; Carolco Pictures, Inc. v. Viacom International, Inc.; Carolco Pictures Inc. and Carolco Studios, Inc., et al. (Chapter 11 proceedings); Marvel Entertainment Group v. Columbia TriStar Home Video; Marvel Entertainment Group v. Viacom International, Inc.; Metro-Goldwyn-Mayer Studios Inc. v. Marvel Entertainment, Viacom International, Inc., Columbia Tri-Star Home Video; John J. Gibbons, Chapter 11 Trustee for Marvel Entertainment Group, Inc. v. Viacom International, Inc., CPT Holdings, MGM Entertainment, et al.* (D. Del.): Following extensive motion practice, a partial settlement, and trials in California and Delaware state and federal courts over five-year period, successfully represented **Sony Pictures** in multiparty disputes over control of Spider-Man comic book characters. From these cases, Sony obtained the rights to create, produce, and distribute *Spider-Man* motion pictures and merchandise.

- *Franz Wynans Fine Art Inc. v. The Andy Warhol Foundation for the Visual Arts, Inc.* (British Columbia Supreme Court): Obtained a dismissal of a lawsuit against **The Andy Warhol Foundation** over ownership of Warhol works arising from a contract Andy Warhol entered into with an art publisher.
- *Comerica Bank v. Intertainment Licensing GmbH, et al.* (Arbitration): Successfully defended **Film Finances, Inc.** in an arbitration involving claims of fraud in the budgets of a slate of motion pictures.
- *GK Films LLC v. Aurelius Films Inc.* (Arbitration): Won an arbitration award for **GK Films LLC**, the producer of *Argo*, *The Departed*, and *Hugo*, in an action to enforce its rights in a motion picture.
- *Warner Bros.* (France): Successfully represented **Warner Bros.** in a claim relating to the distribution in France of movie picture titled “Captain Harlock” that resulted in a cost-free settlement to our client.
- *Newbridge Film Capital LLC v. Houston Casualty Company and CineFinance Insurance Services, LLC* (Arbitration): Won a complete victory, including an award of nearly \$4 million in fees, for **Houston Casualty Company** and **CineFinance Insurance Services (HCC)** in a dispute concerning the financing of the motion picture titled “Tekken.”
- *ITV Group v. STV Group* (Commercial Court – UK): Successfully represented the **ITV Group** companies in Commercial Court proceedings against the STV Group relating to the broadcast and sponsorship of network programs.

Copyright, idea submission, and implied-in-fact contracts

- *The Andy Warhol Foundation For The Visual Arts* (S.D.N.Y.): In June 2019, the firm obtained a major copyright victory on behalf of **The Andy Warhol Foundation** in connection with Warhol’s portraits of Prince. The Foundation commenced an action in the Southern District of New York in 2017 against photographer Lynn Goldsmith, who claimed Warhol’s Prince works infringed her copyright of a photograph she took of Prince in 1981. The Foundation sought a declaratory judgment that the works were non-infringing and protected by fair use. Following discovery, the parties moved for summary judgment on their respective claims. After oral argument, the district court granted the Foundation’s motion, holding that each of Warhol’s sixteen Prince works are transformative and protected by fair use. The court dismissed Goldsmith’s counterclaim for copyright infringement and denied her motion for summary judgment. The court recognized that Warhol’s Prince works “add something new to the world of art and the public would be deprived of this contribution if the works could not be distributed.” The court’s ruling will have a lasting impact on Warhol’s legacy: finding that Warhol’s Prince works are transformative—works the court recognized as quintessential “Warhols”—protects the rest of Warhol’s oeuvre from similar claims of infringement.

- *Morgan Art Foundation Ltd. v. McKenzie, et al.* (S.D.N.Y.): We represent **Morgan Art Foundation**, a longtime patron of the late artist Robert Indiana, and the holder of intellectual property rights for some of Indiana’s most famous works, including the LOVE image. Morgan brought claims against Michael McKenzie, American Image Art, and Jamie Thomas in connection with their unauthorized forgery of several Indiana works. Indiana’s Estate is also a defendant in this lawsuit. Indiana’s Estate asserted counterclaims against Morgan for, among other things, purportedly failing to provide Indiana with accountings and royalties required by certain agreements between the two parties. McKenzie and American Image Art likewise brought counterclaims against Morgan for purportedly interfering with agreements McKenzie and American Image Art allegedly had with Indiana. Morgan moved to dismiss the Indiana’s Estate’s counterclaims and certain of the counterclaims brought by McKenzie and American Image Art for failure to state a claim. The Court granted much of the relief Morgan requested, dismissing counterclaims brought by the Estate for breach of contract and unjust enrichment, and allowing the Estate’s remaining claims to go forward only on certain narrow grounds. The Court likewise dismissed McKenzie and American Image Art’s counterclaims for tortious interference and unfair competition, and permitted their counterclaim for slander of title to go forward based on only one narrow theory. Meanwhile, discovery continues as to all of Morgan’s affirmative claims.
- *Charlie Kessler v. Matt and Ross Duffer* (Cal.). We represented **Matt & Ross Duffer**, creators of Netflix’s hit TV show *Stranger Things*, after they were accused of basing the show on ideas allegedly described to them at a party by Charlie Kessler. The Duffer brothers hired us two weeks prior to trial to act as lead counsel. Plaintiff dismissed his case before the trial commenced.
- *MGM Studios Inc., et al. v. Grokster, Inc., et al.*, 545 U.S. 913 (2005): Successfully represented **motion picture studio and record company plaintiffs** in copyright infringement suit against Grokster, Morpheus, and Kazaa networks, culminating in landmark 9–0 United States Supreme Court decision adopting “active inducement” theory of contributory copyright infringement.
- *Eldred v. Ashcroft*, 537 U.S. 186 (2003): Represented **bipartisan leadership of Congress** before the United States Supreme Court against constitutional challenges to Congress’s 1998 adoption of a twenty-year extension to the term of copyright.
- *Capitol Records, LLC v. Vimeo, LLC* (S.D.N.Y. and Second Circuit): Successfully represented **Vimeo** in a copyright infringement action filed by the major record labels concerning user-uploaded videos that contained allegedly infringing music. The Second Circuit held that: (1) the Digital Millennium Copyright Act safe harbor applies to pre-1972 sound recordings; and (2) mere awareness of the presence of a “famous” song in a video cannot confer “red flag” knowledge of infringement.
- *Benay v. Warner Bros. Entertainment Inc.* (C.D. Cal and 9th Cir.): Successfully represented **Warner Bros.** and the producers, writers, and director of the motion picture “The Last Samurai” in a copyright infringement and breach of implied-in-fact contract (idea

submission) action alleging that they had used material written by the plaintiffs to write and produce the film.

- *ABS Entertainment, et al. v. CBS and CBS Broadcasting* (C.D. Cal. and S.D.N.Y.): Representing radio broadcasters **CBS Radio** and **Entercom** in putative class actions in alleging “performance right” to sound recordings created before 1972. Invoked novel “remastering” theory to shield clients from liability.
- *Danjaq LLC and Metro-Goldwyn-Mayer Studios Inc. v. Universal City Studios and Aaron Berg* (C.D. Cal.): Successfully represented **plaintiff producers and distributors of James Bond motion pictures** in copyright infringement lawsuit against studio and screenwriter behind knock-off screenplay.
- *Buchbinder v. Paramount Pictures Corp. et al* (C.D. Cal.): Successfully represented **Paramount Pictures, DreamWorks, and Ben Stiller** in an action in which plaintiffs contended that the movie “Tropic Thunder” infringed their 2000 screenplay.
- *Vertigo Entertainment v. DreamWorks Animation SKG*: Successfully represented **DreamWorks Animation SKG** in an idea misappropriation action concerning the animated film “How to Train Your Dragon.”
- *Viacom International, Inc. v. YouTube Inc.*(S.D.N.Y.): Successfully represented **YouTube** in an action brought by Viacom claiming that YouTube did not exercise sufficient care in policing its web service to claim protection of the Digital Millennium Copyright Act safe harbor provisions.
- *GDC Technology v. Dolby Laboratories* (C.D. Cal.): Successfully represented **GDC Technology**, seller of digital theater systems, in copyright dispute over software used to control technology and in claims for contract interference.
- *Confidential Video Game Dispute*: Successfully represented developers of two bestselling video game franchises in disputes with a major publisher and rival. The dispute involved patents, trade secrets, copyrights, trademarks, and royalty calculations. After the first of two trials, the matter settled on terms favorable to the client.
- *Gibson Guitar Corporation v. Amazon.com, Inc., Gamestop Corporation, Toys-R-Us Inc., Wal-Mart Stores, Inc., Target Corporation, Kmart Corporation, Sears Roebuck & Co, Harmonix Music Systems, Inc., Viacom International Inc., and Electronic Arts Inc.* (M.D. Tenn.): Represented game developer, publisher, and retailers in patent infringement action filed by the famous guitar maker, which asserted that its patents allegedly drive the technology behind the multibillion-dollar Guitar Hero and Rock Band video game franchises. Obtained stay of proceedings pending PTO patent reexamination, during which the PTO narrowed the claims and thereby rendered plaintiff’s case unwinnable.
- *Time Warner Entertainment Co., Home Box Office, Warner Bros., Warner Bros. Television, Turner Broadcasting System, Inc., New Line Cinema Corp., and The WB Television Network Partners L.P. v. ReplayTV, Inc.* (C.D. Cal.): Represented plaintiff content and media

companies in a copyright infringement action against the maker of the ReplayTV DVR, based on inclusion of commercial-skipping, librarying, and file sharing functions. Matter settled on terms favorable to clients.

- *Frederick Hart and National Cathedral Foundation v. Warner Bros.* (E.D. Va.): Represented **Warner Bros.** in copyright and trademark suit brought by sculptor and Washington's National Cathedral over set in the movie *The Devil's Advocate* infringed sculpture above the Cathedral's entrance.
- *Metro-Goldwyn-Mayer Studios Inc., Disney Enterprises, Inc., Twentieth Century Fox Film Corp., Columbia Pictures, Inc., Columbia Pictures Television, Inc., TriStar Pictures, Inc., Paramount Pictures Corp., Universal City Studios, Inc., and Time Warner Entertainment Co. v. RecordTV.com and David Simon* (C.D. Cal.): Obtained permanent injunction for plaintiffs (**all of the major motion picture studios**) against defendants' Internet site, which allowed users to copy and display over the Internet plaintiffs' copyrighted movies and television shows.
- *Leicester v. Warner Bros.*, 232 F.3d 1212 (9th Cir. 2000): Prevailed at trial and on appeal for defendants on copyright and trademark claims filed by sculptor of *Zanja Madre* public art installation in downtown Los Angeles based on unauthorized photography of plaintiff's work in scenes of movie *Batman Forever* and use on film-related merchandise.
- *The New Young Americans, Inc. v. Columbia Pictures Television, Inc. and The WB Television Network, et al.* (C.D. Cal.): Defended copyright and trademark claims filed by music group against **Columbia Pictures Television** and the **WB TV Network** over television series titled *The Young Americans*.
- *UM Corporation v. Tsuburaya Productions Co. Ltd.* (C.D. Cal.): Won a jury trial for Japanese entertainment company **Tsuburaya Productions Co., Ltd.** in a dispute over rights to Tsuburaya's iconic "Ultraman" superhero character.
- *Zynga Game Network v. Kyle McEachern* (N.D. Cal.): Represented **Zynga** against a former employee and contractor who hacked Zynga's servers. Obtained a permanent injunction and award of damages.
- *Perfect 10 v. Yandex N.V. et al* (N.D. Cal.): Successfully represented **Yandex N.V., Yandex Inc.** and **Yandex LLC**, owners of the largest search engine in Russia and other Eastern European markets, over allegations the search engine contributed to infringements of Perfect 10's copyrights by providing links and hosting thumbnails of allegedly-infringing images.
- *Lewin v. The Richard Avedon Foundation* (S.D.N.Y.): Successfully represented **The Richard Avedon Foundation** in a case for interference with contract and determination of copyright ownership concerning over 4,000 Avedon photographs.
- *Lilith Games (Shanghai) Co. Ltd. v. uCool, Inc. et al* (N.D. Cal.): Successfully represented

uCool in an action alleging that it misappropriated source code for use in the video game “Heroes Charge.”

- *Warner Bros. (France)*: Obtained a dismissal of copyright claims against **Warner Bros.** and the authors, director, producer, distributors, and broadcasters of the French hit comedy “Les Seigneurs.” Successfully moved to strike the appeal of the decision.
- *Jeremy Southgate v. United States et al.* (E.D. Vir.): Obtained a dismissal with prejudice of a complaint alleging racketeering, trademark and copyright infringement against the **Academy of Motion Picture Arts and Sciences**.

Defamation and right of publicity, including name-and-likeness rights

- *Zimmerman v. Al Jazeera America, LLC et al.* (D.D.C.): Successfully represented Major League Baseball players **Ryan Howard** and **Ryan Zimmerman** in a defamation action against Al Jazeera America (and related entities) arising from a documentary accusing them of using a banned performance enhancing substance.
- *Turner, et al. v. Spiegel, Murphy, and Snapchat* (L.A.S.C.): Successfully defended **Snapchat** and co-founders **Evan Spiegel** and **Bobby Murphy** against Right of Publicity and Section 3344 (Name and Likeness) claims for use of plaintiffs’ likenesses in connection with Snapchat app.
- *Terry Crews v. Adam Venit and William Morris Endeavor* (L.A.S.C.): Successfully defended **William Morris Endeavor** talent agency against claims of harassment and battery.

First Amendment

- *Zhang v. Baidu.com Inc. and the People’s Republic of China* (S.D.N.Y.): Successfully represented **Baidu.com**, the most popular internet search service in China, in an action claiming that it violated United States laws by allegedly preventing its search engine from returning results linking to plaintiffs’ works advocating political change in China. The court held that Baidu’s search results were protected speech and that the action was therefore barred by the First Amendment.
- *Byers v. Edmondson, et al.* (Tangipahoa Parish, Louisiana), 2001 WL 1147451, 29 Media L. Rep. 1991 (La. Dist. Ct. Mar. 12, 2001), *aff’d.*, 826 So. 2d 551 (La. App. 2002), *cert. denied*, 826 So. 2d 1131 (La. 2002); prior history: 712 So. 2d 681 (La. App. 1998), *writ denied*, 726 So. 2d 29 (La. 1998), *cert. denied*, 526 U.S. 1005 (1999): Obtained summary judgment for film director **Oliver Stone**, **Time Warner**, **Warner Bros.**, and other defendants in a wrongful-death suit arising from a “copycat crime” allegedly inspired by the movie *Natural Born Killers*.
- *Citizens For Fair Treatment, Inc. v. Time Warner Entertainment Co., New Line Cinema Corp., Metro-Goldwyn-Mayer Studios Inc., Paramount Pictures Corp., Sony Pictures Entertainment Inc., Universal Studios, Inc., Twentieth Century Fox Film Corp., and The Walt Disney Company* (L.A.S.C.): Successfully defended all defendants (the **seven major motion picture studios**) in unfair competition action brought under California’s Business &

Professions Code §17200 alleging that motion picture studios unlawfully marketed to children motion pictures rated “R” for their depiction of violence. Obtained writ to confirm statutory entitlement to stay of trial court proceedings pending defendants’ exercise of right of automatic appeal of denial of anti-SLAPP motion. Following reversal of trial court, obtained record-setting award of attorneys’ fees for clients.

Government investigations

- Represented the **major motion picture studios** in the Federal Trade Commission’s 2000, 2003, and 2006 investigations into the film , music, and video game industries’ alleged marketing to minors of content depicting violence.
- *Australian Securities and Investments Commission Investigation of Leon Pasternak*: Successfully represented **Leon Pasternak**, the Deputy Chairman of Australian radio company Southern Cross, in a regulatory investigation of Mr. Pasternak’s purchase of Southern Cross shares, which the regulator alleged constituted insider trading.
- Represented the **Motion Picture Association of America and its member companies** in hearings before the California legislature and state Senate Judiciary Committee to defeat proposed legislation that would have imposed civil and criminal liability on content licensors who failed to license their content to affiliates for sufficiently high fees.

Participations and royalties

- *Century of Progress Productions, Inc. et al. v. Vivendi, et al.* (C.D. Cal.): Representing **Vivendi** and **Studiocanal**, who own the *This Is Spinal Tap* movie and soundtrack album, against claims for improper accounting, fraud, and termination of the copyright grant.
- *Martindale v. Sony Pictures Entertainment* (L.A.S.C.): Defended putative class action lawsuit against **Sony Pictures** concerning accounting for revenues from home video distribution of motion pictures under contracts that pre-date the development of the home video industry.
- Confidential Arbitration (JAMS): Prevailed at trial on behalf of sellers of independent film distribution company to recover post-closing portion of purchase price owed by private equity purchaser and defeated purchaser’s fraud counterclaim alleging false and misleading financial statements.
- Confidential Dispute Over Participation Accounting on Series of Motion Pictures: Successfully represented producer of motion pictures series and author of book on which the series is based in nine-figure dispute with studio/distributor over contingent compensation.
- *Jason West and Vince Zampella v. Activision Publishing, Inc.* (L.A.S.C.): Successfully represented plaintiffs, creators of the multibillion-dollar video game franchises *Call of Duty* and *Modern Warfare*, in dispute over nonpayment of nine-figure bonuses and unauthorized development of sequels and other games. Case settled on favorable

terms day before jury selection was to begin.

- *Tommy Lee Jones v. Paramount Pictures Corporation* (W.D. Tex. and JAMS Arbitration): Represented **Paramount Pictures**, the studio and distributor of the Academy Award-winning motion picture *No Country for Old Men*, in a dispute with actor over contingent compensation contract. Obtained dismissal with prejudice of fraud claims and compelled performer to arbitrate dispute.
- *The Saul Zaentz Co. v. New Line Cinema Corp.* (L.A.S.C.): Represented the studio behind *The Lord of the Rings* motion picture trilogy, **New Line Cinema**, against accounting and breach of contract claims related to rights holder's "adjusted gross receipts" participation. Obtained summary judgment on counterclaim regarding rights to *The Hobbit*.
- *Burrows v. Warner Bros. Television* (L.A.S.C.): Represented **Warner Bros.** against contract and accounting claims arising from well-known director's percentage participation in "defined proceeds" on the *Friends* television series.
- *Wingnut Films, Ltd. v. Katja Motion Pictures Corp., et al.*, (C.D. Cal.): Defended **New Line Cinema** and its production company against claims by writer-director-producer Peter Jackson that his contract was breached paying his share of "gross receipts" on *The Lord of the Rings* motion picture trilogy. Plaintiff asserted "vertical integration" claims related to distribution licenses involving companies affiliated with the defendants.
- *StudioCanal Image, S.A., et al. v. Artisan Entertainment, Inc.* (L.A.S.C.): Successfully defended home video distributor in connection with long-standing lawsuits involving claims and counterclaims over accountings and contract rights to distribute the Carolco Pictures film library, which includes *Terminator 2*, *Basic Instinct*, the *Rambo* series, *Total Recall*, and *Stargate*.
- *Batfilm Productions, Inc. v. Warner Bros., et al.* (L.A.S.C.): Successfully defended **Warner Bros.** through judge and jury trials against claims brought by the executive producers of *Batman* and *Batman Returns* regarding their alleged contract right to produce the movies and their credit and participation accounting claims, resulting in a zero recovery for the plaintiffs.

Patents and trade secrets

- *Red.com v. ARRI, AG* (C.D. Cal.): Successfully represented **ARRI AG** in an action for misappropriation of trade secrets and violations of the Lanham Act in the development and marketing of digital motion picture cameras, and **ARRI Inc.** in an action for unfair competition and misappropriation of trade secrets concerning the marketing and distribution of digital motion picture cameras and related equipment.
- *SimpleAir, Inc. v. Sony Ericsson Mobile Communications AB* (Fed. Cir.): Obtained a reversal of an \$85 million verdict against **Google** for patent infringement of technology used to send notifications to mobile devices, by successfully arguing that the district court

erred in its claim construction.

- *Google v. Nokia EP'375* (German Federal Patent Court, Sixth Nullity Senate): Obtained a complete victory for **Google** in a nullity action against Nokia concerning the German part of Nokia's European patent, resulting in the revocation of Nokia's patent in its entirety and rejecting all of Nokia's 40 auxiliary requests.
- *Function Media, LLC v. Google, Inc. and Yahoo, Inc.* (E.D. Tex.; Fed Cir.): Won a unanimous jury verdict of both non-infringement and invalidity in the Eastern District of Texas and a complete affirmance of the judgments from the United States Court of Appeals for the Federal Circuit for **Google's** AdSense advertising products against Function Media's \$600 million claim of infringement of three patents.
- *Altinex Inc. v. Alibaba.com Hong Kong Limited* (C.D. Cal.) and *Carp et al v. Alibaba Group Holding Limited* (D. Mass.): Obtained a complete victory on summary judgment for **Alibaba.com** Hong Kong Limited, and won dismissal of design patent claims asserted against **Alibaba Group Holding Limited**. Both cases involved patent and trademark infringement claims stemming from third-party product listings on the Alibaba.com website.
- *Philips v. Google et al.* (Mannheim District Court): Successfully represented **Google**, first as intervener and later as co-defendant, in a patent infringement action brought by Philips against mobile phone and tablet manufacturers.

Personal service contracts, including executive and employee mobility claims

- *Keitel v. E*Trade Financial Corp* (N.Y. Sup. Ct.; N.Y. App. Div.): The New York Supreme Court, Appellate Division affirmed our win on a motion to dismiss a breach of contract action brought by actor Harvey Keitel against **E*TRADE**, finding that "no valid and binding contract was ever formed."
- *Vergara et al. v. Twentieth Century Fox Int'l Television, Inc.* (Los Angeles Super. Ct.): Successfully represented **the cast of the television show *Modern Family*** in a declaratory relief action arising from contracts allegedly in violation of California's "Seven-Year Rule" (Labor Code § 2855) for personal service agreements.

Privacy, including Video and Biometric Information Privacy Acts

- *In re Hulu Privacy Litigation*, 86 F.Supp.3d 1090 (N.D. Cal. 2015): Successfully defended **Hulu** in consolidated putative class action cases involving the Video Privacy Protection Act and related privacy statutes, and the allegation that the defendant knowingly disclosed personally identifiable information about its users. Defeated class certification and obtained summary judgment on liability.
- *Vigal v. Take-Two Interactive*, 235 F.Supp.3d 499 (S.D.N.Y. 2017), *aff'd.*, (2d Cir. No. 17-303, Nov. 21, 2017): Successfully defended **Take-Two Interactive**, publisher of the

NBA 2K basketball video games, against class action alleging violation of the Biometric Information Privacy Act (“BIPA”) based on use of user photographs to create customized game players and transmit them to third party users when playing in multiplayer mode. Decision affirmed on appeal.

Trademark, trade dress, and antipiracy

- *Wildfireweb, Inc. v. Tinder, Inc. et al* (C.D. Cal.): Successfully represented **Tinder, Inc. and IAC/InterActiveCorp** in a trademark infringement lawsuit brought by a website designer that had a prior federal registration in a “Tinder” trademark.
- *The Academy of Motion Picture Arts and Sciences v. De La Rosa* (W.D. Tex.): Obtained a permanent injunction and damages for the **Academy of Motion Picture Arts & Sciences** in a suit for copyright infringement, trademark infringement, trademark dilution, and false advertising against a retailer of counterfeit “Oscar” statuettes.
- *Academy of Motion Picture Arts and Sciences (“AMPAS”) v. Briarbrook Auction, LLC, et al.* (LASC): Obtained an important ruling upholding AMPAS bylaws giving it right of first refusal to buy back its Oscar statuettes for \$10 and its applicability to Oscar statuettes awarded prior to enactment of the bylaw. The Court held that AMPAS’s restriction on alienability of the statuettes runs with the statuette, and binds the winner’s heirs and successors, as long as the winner was a member of the Academy at the time the bylaw was adopted.

Sports Representations

- We represented Swiss-based **Highlight Group** in a shareholder dispute about a joint venture in the area of international sports. The dispute arose after one shareholder caused a deadlock by refusing to provide promised financing and by challenging decisions of the board of directors. We defended against all actions and secured our client a controlling stake in the company.
- We successfully enforced our client’s tournament agreement with a world champion boxer, who had publicly withdrawn from a high profile international boxing tournament. We achieved this through an ex parte injunction obtained from a Swiss court, which compelled the boxer to announce on his social media platforms his return to the tournament, and which led the international boxing federation to threaten the boxer that his world championship title would be withdrawn if he failed to comply with his obligations under the agreement with our client.
- *Washington Nationals Baseball Club, LLC v. TCR Sports Broadcasting Holding, LLP d/b/a Mid-Atlantic Sports Network* (N.Y. Sup. Ct.; N.Y. App. Div.): Successfully represented the **Washington Nationals** in a dispute with the Baltimore Orioles and the Mid-Atlantic Sports Network over the parties’ broadcast agreement.
- *Bouchat v. Baltimore Ravens Ltd. P’ship, et al.* (D. Md.; 4th Cir.): Successfully represented **The National Football League** and the **Baltimore Ravens** professional football franchise in a series of copyright actions stemming from the adoption by the Ravens

of an inaugural logo for its 1996-1998 seasons that plaintiff Frederick Bouchat alleged was substantially similar to a copyrighted drawing he had submitted for consideration.

- *Gross v. GFI Group, et al.* (S.D.N.Y.): Obtained dismissal with prejudice for **Michael “Mickey” Gooch** and **Colin Heffron** against securities fraud claims.
- We acted for a **Premier League Football Club** (UK) on the only successful ground move in the history of the Football League from one area of the country to another, which included a Football Association (FA) Arbitration and Commission of Inquiry, and in a player transfer dispute in a FA arbitration.

Other notable matters

- We are General Counsel to the **Academy of Motion Picture Arts and Sciences**, and successfully represented the Academy in many matters, including actions to enforce its right to protect Oscar statuettes from commercial exploitation and as to its annual program. We also handle the Academy’s IP enforcement in the UK.
- Quinn Emanuel obtained a voluntary dismissal with prejudice of a headline-grabbing breach of contract and fraud suit filed by internationally acclaimed professional poker player Gordon Vayo against Quinn Emanuel client **Rational Entertainment Enterprises Limited**, an Isle of Man company that owns and operates a number of successful gambling websites, including PokerStars.com. The suit arose from PokerStars freezing Vayo’s account based on the determination that Vayo had been playing in a PokerStars tournament from the United States, in violation of PokerStars’ terms of service. In the course of defending against Vayo’s claims, Quinn Emanuel uncovered that Vayo was the one who had committed fraud by forging documents—including bank records—in an effort to prove he was not in the United States and therefore eligible to collect money he had won in the PokerStars tournament. Once PokerStars revealed Vayo’s fraud, he dismissed his suit with prejudice while PokerStars’ motion to dismiss for lack of personal jurisdiction and improper forum was pending, and before any discovery.
- *Icahn v Lions Gate Entertainment Corp. et al.* (N.Y. Sup. Ct.; S. Ct. British Columbia): Successfully represented **MHR Fund Management**, its founder Dr. Mark Rachesky, and affiliated funds relating to Carl Icahn’s actions in British Columbia, where he alleged shareholder “oppression,” and in New York, where he alleged tortious interference with a contract between Icahn and the company. Icahn sought to undo a series of transactions in which MHR, a large shareholder, acquired additional shares in the company. Following a four day trial, the Supreme Court of British Columbia rejected Icahn’s bid to rescind the transactions or sterilize MHR’s votes, and two months later, the New York Supreme Court denied Icahn’s request for a preliminary injunction.

** Some representations concluded before the lead partner joined Quinn Emanuel*