

Trademark, Advertising, and Unfair Competition

Trademarks are the cornerstone of many businesses and are essential in building and safeguarding brand value. Protecting these vital assets requires constant vigilance and enforcement efforts on a global scale. Nationally recognized by *Chambers USA* as a leader in Trademark, Copyright, and Trade Secrets, Jenner & Block excels in helping clients protect their trademarks, preserve and maximize the value of their brands worldwide, and assert and defend infringement, misappropriation of trade secrets, trade dress, false advertising, and unfair competition claims.

Advice Across Industries and Throughout Corporate Lifecycles

We represent clients in diverse industries at every stage, from entertainment to food and beverage, and technology businesses. Our clients include global enterprises, longstanding, established companies, early-stage companies, and entities in emerging industries such as cannabis and the metaverse. Their brands are their crown jewels, essential to their continued growth, goodwill, and success. We help these clients strategize on portfolio development and management and resolve all types of brand-related issues and disputes. Our experience extends to trade dress issues and advertising campaigns arising under the Lanham Act and related state laws.

In addition, we handle US trademark filings and prosecution, represent clients in UDRP proceedings, devise and help clients implement brand enforcement programs and social media policies and practices, issue enforceability and infringement opinions, and conduct due diligence investigations.

A Trial-Tested Team

Experienced in all aspects of federal court litigation, our litigators have distinguished themselves with their success in jury trials. We are a go-to firm when a case is expected to go to trial or a preliminary injunction hearing is imminent. We have prevailed in bench and jury trials, *ex parte* seizures, and in *inter partes* proceedings before the Trademark Trial and Appeal Board. In addition, we have successfully handled a string of high-profile cases using First Amendment defenses to trademark infringement.

Transformative Guidance in Leading-Edge Fields

We advise emerging companies as well as industry giants as new technologies, platforms, opportunities, and attendant risks transform their industries and the way they do business. Always at the leading edge, we have litigated infringement in cases involving new media, virtual reality,

cryptocurrencies and blockchain. Clients also call on us for advice on emerging technologies, the metaverse, and NFT trademark issues.

Lean, efficient, tech-savvy, and creative, our team understands how to achieve each client's business and legal objectives. From industry leaders to emerging technologies and platforms, our Trademark, Advertising, and Unfair Competition lawyers help protect the brands that are shaping the future.

Experience

- ***Diageo North America, Inc. v. Deutsch Family Wine & Spirits:*** Secured a jury trial victory for Diageo North America, Inc., the world's largest spirits company, in a lawsuit accusing defendants of infringing the trade dress of Diageo's popular Bulleit whiskey bottle through the marketing of their Redemption whiskey bottles. The court also subsequently granted Diageo's request for a permanent injunction.
- ***MGFB Properties, Inc., et al. v. Viacom, et al.:*** Achieved a complete victory for Paramount Global (f/k/a ViacomCBS) in a \$100 million trademark dispute over the title of the MTV reality show, "MTV Floribama Shore." The plaintiffs, owners of the "Flora Bama Lounge, Package and Oyster Bar," sued ViacomCBS seeking an injunction to stop MTV from using the term "Floribama" in the title and alleging claims for federal and state trademark infringement. After years of litigation, the judge granted summary judgment to ViacomCBS, dismissing the case in full, ruling that ViacomCBS's First Amendment right to title its expressive work "MTV Floribama Shore" outweighed the plaintiffs' rights under the Lanham Act. The US 11th Circuit Court of Appeals affirmed the ruling.
- ***Warner Bros. Entm't v. Random Tuesday, Inc.:*** Represented motion picture and television studio Warner Bros. in successfully prosecuting and resolving a lawsuit for trademark infringement, copyright infringement, and trademark dilution against a business operating "virtual running clubs" that made unauthorized uses of Warner Bros.' Harry Potter and Gilmore Girls trademarks and copyrighted images in their business names, websites, marketing materials, and merchandise sales. The matter concluded with the entry of a permanent injunction.
- ***Hetronic International v. Hetronic Germany, et al.:*** Secured a substantial jury verdict in the Western District of Oklahoma in a case involving the product names and trade dress of industrial radio remote controls. The jury award included damages for trademark and trade dress infringement, breach of contract, and other claims. The case was appealed to the 10th Circuit and ultimately to the US Supreme Court, which adopted a new rule on the extraterritorial application of the Lanham Act. The case has been remanded to the district court for further proceedings.

- ***JTH Tax LLC v. AMC Networks Inc. and Sony Pictures Television, Inc.***: Won a motion to dismiss federal trademark claims brought against AMC Networks, Inc. and Sony Pictures Television, Inc. by Liberty Tax Service. The plaintiff alleged that defendants had infringed on their trademark and trade dress with the depiction of a fictional business in an episode of the popular series *Better Call Saul*. The case involved substantial questions of First Amendment protection for creative works and limitations on trademark rights being used to challenge such works.
- ***NBCUniversal Media LLC v. Jay Kennette Media LLC, et al.***: Won a victory for NBCUniversal in its lawsuit accusing two companies of squatting on trademarks from former NBC hit shows *The Office* and *Friday Night Lights* by selling merchandise branded with “Dunder Mifflin” and “Dillon Football.” The defendants, according to the lawsuit, “built a business based on registering trademarks belonging to others in order either to sell them back to their rightful owners or to profit from consumer confusion by selling branded merchandise that consumers inevitably will associate" with the established media. The court entered a permanent injunction in favor of our client.
- ***Akeem Daniels v. FanDuel Inc, et al.***: Secured a victory in the Indiana Supreme Court for FanDuel in a closely watched putative class action accusing daily fantasy sports operators of profiting off the unauthorized use of the names and likenesses of former NCAA athletes. The high-profile case addressed questions about the scope of the “newsworthy” exception to Indiana’s right of publicity law and presented huge stakes not only for fantasy sports businesses, but also for the burgeoning sports betting industry.

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