

Jenner & Block to Argue Lanham Act Scope Before SCOTUS in *Abitron Austria GmbH et al. v. Hetronic International Inc.*

News

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On March 21, Partner Matthew Hellman will represent Hetronic International before the US Supreme Court in *Abitron Austria GmbH et al. v. Hetronic International Inc.* The case concerns the application of the Lanham Act and the firm's 10th Circuit victory which applied the Act to Abitron Austria GmbH's foreign sales.

“Reaffirming that the Lanham Act reaches foreign acts of infringement that harm U.S. commerce— as the Supreme Court did in 1952, 1991 and 2010 - ensures that trademark holders and consumers are protected from knockoffs marketed by overseas infringers,” said Matthew. “The petitioners’ primary argument is that applying the Lanham Act to foreign acts of infringement will create international tension. Yet this theoretical ‘parade of horrors’ - including purported conflict of laws – has been disproven by 70 years of experience in applying the Lanham Act to such infringement. This argument plays on false fears.”

In *Hetronic International v. Hetronic Germany*, a jury awarded \$113 million for Hetronic International, Inc. against two of its former European distributors for selling copycat products. Hetronic was also granted an injunction that prevented the distributors from selling infringing products in every country in which Hetronic markets or sells its products. In 2021, the 10th Circuit affirmed.

Partner Debbie L. Berman argued the appeal in the 10th Circuit. “For more than 70 years, the Court has recognized that trademark pirates can’t evade the Lanham Act simply because they consummate their infringement overseas,” she said. “This case gives the Court an opportunity to reaffirm this basic proposition and continue the protections upon which US trademark holders and consumers have relied for decades.”

There is broad support for upholding this application of the Lanham Act, including from the American Bar Association, International Trademark Association, American Intellectual Property Law Association, and the Intellectual Property Owners Association.

Read the team's Supreme Court brief. Listen to the oral arguments.

The Supreme Court team includes Debbie Berman and Matt Hellman, along with Partners Lauren Hartz, Remi Jaffre, and Gianni Servodidio; and Associates Victoria Hall-Palerm and Jonathan Marshall. Additional support was provided by Partners Jessie Amunson, Clifford Berlow, Michael Brody, Ian Gershengorn, Lindsay Harrison, Laura Hulce, Michelle Kallen, Annie Kastanek, Matt Price, Wade Thomson, and Adam Unikowsky; and Associates Rachel Foster, Christina Lopez, Courtney Shier, Grace Signorelli-Cassady, and MJ Wayne.

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Related Capabilities

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