



quinn emanuel trial lawyers

quinn emanuel urquhart & sullivan, llp

Internet Litigation

We are one of the leading litigation firms for Internet-related disputes. In 2010, *The American Lawyer* ranked us "Top IP Litigation Department of the Year." Indeed, our expertise in this field has few rivals. We literally "wrote the book" on Internet litigation, *Law of Internet Disputes*, authored by David Quinto and published by Aspen Law and Business. In addition, our ranks include a Uniform Domain Name Dispute Resolution Policy ("UDRP") panelist appointed by the World Intellectual Property Organization ("WIPO"). We have won at trial, or obtained summary judgment in, a number of cases later argued to the Second, Ninth, and District of Columbia Circuit Courts of Appeal. The degree to which our expertise in Internet matters is recognized may best be illustrated by the fact that several of our lawyers have been tapped for significant in-house positions with such leading Internet companies as eBay and Google.

REPRESENTATIVE INTERNET CLIENTS

Academy of Motion Picture Arts and Sciences
Academy of Television Arts and Sciences
Avery Dennison
Bluefly
Corbis
Google
Lycos
Mattel
Société des Bains de Mer et du Cercle des Étrangers à Monaco (Casino de Monte Carlo)
Roommates.com

RECENT REPRESENTATIONS

- Eon-Net LP et al. v. Flagstar Bancorp (Fed. Cir.). We obtained a complete summary judgment of non-infringement and an award of over \$600,000 in attorney fees and sanctions for our client **Flagstar Bancorp** in a patent infringement case related to converting hard copy documents to computer files using templates and content instructions. On appeal, the Federal Circuit affirmed the judgment for our client in its entirety.
- Barclays v. Flyonthewall (2d Cir. 2011). We represented **Google** and **Twitter** as amicus in the Second Circuit in a successful effort to narrow the tort of "hot news" misappropriation.

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Attorney Advertising. Prior results do not guarantee a similar outcome.

- Paid Search Engine Tools, LLC v. Yahoo! Inc., et al. (E.D. Tex. 2010). Representing **Google**, we brought and won a summary judgment motion of invalidity. The patent-in-suit was asserted against Google in 2008 by Paid Search Engine Tools ("PSET"). PSET had accused Google's AdWords system of infringing the patent, which involved a bid management system that could adjust bidders' bids in online auctions in order to obtain their desired positions and eliminate "bid gaps."
- Software Rights Archive, LLC v. Google Inc., Yahoo! Inc., IAC Search and Media, Inc., AOL, LLC, and Lycos, Inc. (E.D. Tex. 2010). Our client, **IAC Search and Media, Inc. ("IACSAM")**, was sued by a patent troll for the alleged infringement of several patents that allegedly covered key parts of the search algorithms used in IACSAM's Internet search engine. The plaintiff, who was represented by several plaintiffs' firms, sought extensive damages for the alleged infringement by IACSAM and other search engine operators, such as Google and Yahoo!. Our firm played a key role in the preparation of invalidity contentions on behalf of the joint defense group, and the filing of a motion to transfer the case to the Northern District of California, which was recently granted. The plaintiff agreed to a favorable settlement for IACSAM in an amount that was significantly smaller than the plaintiff's initial demand.
- Bright Response LLC v. Google Inc. and Yahoo Inc. (E. D. Tex 2010). Defending Google against a \$128 million patent infringement claim brought by Bright Response LLC against Google's AdWords advertising system in the Eastern District of Texas, we won a complete non-infringement and invalidity verdict after a six-day jury trial.
- Rosetta Stone Ltd. v. Google Inc. (E.D. Va. 2010). We won a complete summary judgment for Google Inc., by which all remaining claims that language software provider Rosetta Stone had asserted based on Google's advertising programs and trademark policies were dismissed with prejudice. In a lengthy opinion, the Court held that Google was not liable for trademark infringement (whether direct, contributory, or vicarious) or dilution. At the pleading stage, Quinn Emanuel obtained dismissal of Rosetta Stone's false endorsement claim under 15 U.S.C. 1125(a) and its state law business conspiracy and unjust enrichment claims.
- In re Jonathan Mitchell Shiff (U.S. Bankruptcy Court for the S.D. Cal. 2010). We represented DIRECTV a cybersquatting case against an individual, Jonathan Shiff, who previously ran one of the largest and most successful independent DIRECTV retailers. After his company was terminated in 2007, Shiff started working as a partner/consultant for another independent DIRECTV retailer. While working with the new DIRECTV retailer, Shiff registered sixty-six domain names using "directv" followed by a city or state name. All of the domain names were registered without DIRECTV's permission or knowledge and in violation of the DIRECTV retailer agreement, which forbids retailers from using DIRECTV trademarks in domain names. The Court found that Shiff violated the Anti-cybersquatting Protection Act and that the violation was willful because he "clearly used the mark in anticipation of

personal profit and did so with the clear understanding that his use of the mark . . . was inconsistent with DIRECTV's rights, desires, and contractual, oral, and written instructions." Although DIRECTV did not offer any evidence of actual damages or Shiff's profits, the court awarded DIRECTV \$7,000 per domain name in damages for a total of \$462,000.

- Function Media, LLC v. Google, Inc. and Yahoo, Inc. (E.D. Tex.). Brought in six months before trial to defend Google's AdSense for Content and AdSense for Mobile Online advertising products against a claim of patent infringement brought by Function Media, we won unanimous jury verdict on both non-infringement and invalidity in the Eastern District of Texas.
- Perfect 10, Inc. v. Google Inc. (C.D. Cal. 2010). For our client **Google**, we successfully obtained summary judgment of safe harbor under the DMCA on copyright infringement claims against Google's Web Search, Image Search and Blogger services. The decision precludes Perfect 10 from seeking any monetary damages for almost all of the more than two million alleged copyright infringements Perfect 10 claimed were hosted by Google's Blogger web blogging service or linked to Google's Web and Image Search results pages. The decision also eliminates the factual basis for Perfect 10's claims of contributory copyright infringement.
- Bid For Position v. AOL (Fed. Cir. 2009). We won affirmance of summary judgment of non-infringement for Google in a patent infringement litigation in which plaintiff sought in excess of \$150 million in past damages and a royalty on future revenue in the billions. The litigation concerned the AdWords auction system used by Google to sell advertisement space on search results pages for Google.com and partner sites.
- Applied Information Sciences v. eBay Inc. (C.D. Cal., 9th Cir. 2007). We obtained a grant of summary judgment for eBay against trademark infringement and unfair competition claims related to its use of the terms "Smart Search" as the label for a hyperlink on its Web site home page. The Ninth Circuit affirmed summary judgment in eBay's favor. 511 F.3d 966 (9th Cir. 2007).
- Jews for Jesus v. Google (S.D.N.Y. 2006). We represented Google in a trademark suit arising from a third party's unauthorized use on blogspot of the plaintiff's registered trademark as the title of a blog critical of plaintiff's organization.
- eDirect Publishing v. eStaffMax (C.D. Cal. 2005). We won preliminary and permanent injunctions for a Web-based business in a false advertising, copyright, trademark and trade dress suit involving automated resume posting site and related software. We also obtained enhanced monetary damages under the Lanham Act, punitive damages and an award of attorney's fees.
- Hermes v. Bluefly (S.D.N.Y. 2004). We represented leading Internet retailer Bluefly in a false advertising suit brought by luxury goods manufacturer Hermes challenging

the use by Bluefly of rare and high-priced Hermes handbags as prizes in an online sweepstakes. We have represented Bluefly in many other disputes arising from its online commerce model and marketing.

- Long v. Walt Disney Co. 116 Cal. App. 4th 868 (2004). We won summary judgment for Disney on tort and equitable claims arising out of the unauthorized use of 25-year old student photographs on a television show and related Internet sites based upon the Uniform Single Publication Act. Our win was then affirmed on appeal.
- International Bancorp, LLC v. Société des Bains de Mer et du Cercle des Étrangers à Monaco (4th Cir. 2003). On behalf of Monaco's resort arm, we won an injunction against an online gambling site trading on the equity of Monaco's famous Casino de Monte Carlo and an affirmance by the 4th Circuit.
- TVT Records v. MP3.com (S.D.N.Y. 2003). We represented MP3.com in a jury trial of the plaintiffs' copyright claims arising from MP3.com's Internet-based music listening service, and obtained a unanimous verdict of no actual damages.
- ASCAP v. MP3.com (S.D.N.Y. 2002). Our lawyers represented MP3.com in an ASCAP rate court proceeding to determine the reasonable level of public performance license payments for audio streaming over the Internet, resulting in a favorable license rate settlement for the client.
- Newman v. MP3.com (C.D. Cal. 2002). Our lawyers represented MP3.com in numerous actions brought in New York and California by record labels, music publishers and artists/songwriters including Bob Dylan, James Taylor, Billy Joel, Randy Newman, Heart, Hanson, Hamstein Music, and Soundgarden arising from the reproduction of musical compositions and sound recordings to facilitate MP3.com's Internet music listening service. In the course of more than 20 lawsuits, many novel issues regarding copyright standing, liability and damages as they relate to Internet music were litigated and determined.
- Grey Advertising v. Gray (C.D. Cal. 2000). We obtained a preliminary injunction for our advertising agency client that shut down a competitor's infringing web site on false advertising and unfair competition grounds.
- Estate of Kurt Cobain v. Smith (C.D. Cal. 1999). Representing the Estate of Kurt Cobain, we recovered the domain name kurtcobain.com as well as other domains from cybersquatters.

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