



## Notable Trials and Settlements

### Trials

- 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.
- We represented **Micron Technology** in its long running battle against Rambus in a patent case arising out of Dynamic Random Access Memory ("DRAM") technology. The U.S. District Court of Delaware trifurcated the trial into three phases -- the "unclean hands" phase, the "patent" phase and the "conduct" phase. In the unclean hands phase, the Court, following a five-day bench trial, issued a written opinion finding that Rambus spoliated evidence and declared the patents in the suit unenforceable. The impact of this decision on the industry is likely to be in the billions of dollars.
- We were substituted in as trial and appellate counsel for **Motorola**, in a sanctions hearing and retrial of a massive trade secrets case in Florida State Circuit Court involving satellite vehicle tracking devise technology, brought by the renowned plaintiff's lawyer, Willie Gary, on behalf of SPS Technologies. SPS sued Motorola in 2002 alleging that it had stolen its trade secrets when it rolled out more than a dozen products that allegedly incorporated SPS's technology. SPS sought at least \$10 billion in damages in the lawsuit. The case, which has been heavily followed by the media, originally went to trial in 2006 but ended in a mistrial after SPS alleged that Motorola and its prior trial counsel had violated the witness sequestration rule concerning its experts. Quinn Emanuel first represented Motorola at a mini-trial on a fee entitlement after sanctions had been awarded against Motorola. At that fee trial, the Gary Firm sought \$2 billion in fees but received a mere 22 million- a fraction of what the Gary Firm alleged it need to be made whole. That award is currently on appeal, and will be argued by Quinn Emanuel on behalf of Motorola. The retrial of the trade secrets case was settled on the eve of trial on terms favorable to Motorola, and as noted by AmLaw Litigation Daily, in an amount "nothing close to [the] \$10 billion" SPS was seeking.
- We represent **Mattel** in a highly-publicized copyright, trade secret and business tort case against MGA Entertainment, the manufacturer of "Bratz" dolls, and Carter Bryant, the creator of Bratz. After a seven-week trial, we won a unanimous jury verdict finding that Bryant had created the "Bratz" name and virtually all Bratz

design drawings, prototypes and sculpts while he was a Mattel employee and therefore were owned by Mattel pursuant to Bryant's inventions agreements. The jury further found in Mattel's favor on its copyright infringement and state law tort claims and awarded Mattel in excess of \$100 million. We then obtained an injunction that prohibits MGA's further manufacture and sale of Bratz dolls and requires MGA to recall infringing products from retail shelves. We also won a separate injunction that bars MGA from using the term "Bratz" for any goods and services and that transfers all worldwide rights (and all trademark registrations) in the "Bratz" mark to Mattel.

- More than a week after trial began, after having no prior involvement in the case, we stepped in and assumed the role of lead trial counsel representing a Southern California **developer** of open-air "lifestyle" shopping centers against the nation's second largest mall developer. Our client had brought claims against the mall developer for interference with prospective business relations based on threats the mall developer allegedly made against a prominent nationwide restaurant chain to discourage the chain from becoming an anchor tenant in our client's new shopping center across the street from the super-regional mall owned by the defendants. Over the next handful of weeks, we conducted most of the witness examinations and handled closing argument and the punitive damages phase of the trial. The jury awarded our client the full amount of compensatory damages requested -- \$74 million, and an additional \$15 million in punitive damages, for a total award of \$89 million. The mall developer is currently appealing the judgment.
- We represented **Hot Creek Developers** in a breach of contract action against the Town of Mammoth Lakes. It was for breach of a statutory development agreement under CA law executed in 1997. Our client had agreed to invest millions of dollars to improve the infrastructure at the Mammoth Yosemite Airport. In exchange, our client received the right to construct a 250 unit hotel and residential condominium project on 25 acres at the airport, along with an option to purchase the property. In 2004, the Town told our client that the project could not proceed and the option to purchase would not be recognized because of objections by the FAA pursuant to the Town's FAA grant assurance contracts. Because satisfaction of FAA grant assurance objections were not a condition of the contract, this was a repudiation and breach. The jury agreed and awarded our client \$30 million.
- We represented **Freedom Wireless** in a suit for patent infringement against twelve defendants for infringement of its patents on prepaid wireless telephone systems and methods. The trial lasted 15 weeks and we obtained a **\$128 million jury verdict** entered against several wireless telephone carriers. The verdict is the largest ever awarded in Massachusetts, and was the eighth biggest verdict awarded in the U.S. that year. The case recently settled for a lump sum payment of \$87 million, plus on-going royalties which are expected to generate an additional \$50 million.
- We represented **Occidental Petroleum**, and won a jury verdict establishing liability in an insurance coverage case regarding business interruption losses sustained from

over two hundred terrorist bombings of an oil pipeline in Colombia. The case **settled for nine figures** before the damages phase of the trial.

- We represented the **University of Southern California** as substitute counsel following a remand by the Court of Appeal affirming liability for breach of contract but mandating a trial on lost profits damages. We obtained summary adjudication of plaintiff's claims for fraud, intentional interference and negligence, leaving the lost profits claim. Plaintiff sought in excess of one billion dollars in lost profits. At trial, the court granted USC's motion to exclude the plaintiff's damages expert from testifying at trial, leaving the plaintiff without a damages expert. Rather than proceed with a trial on lost profits without a damages expert, plaintiff stipulated to judgment against it on lost profits.
- We represented **RealNetworks** as a defendant in an internet software patent case brought by Ethos Technologies in Boston. We were hired as trial counsel after the close of fact discovery. After a 20-day trial, the jury found **seven of the ten claims asserted against RealNetworks invalid, and all ten asserted claims not infringed**, defeating a damages claim of over \$200 million. Jury verdicts of invalidity in such cases are exceedingly rare.
- We represented **Shell Oil** in an antitrust case brought by California gas station dealers alleging price discrimination in setting wholesale price zones ("zone abuse"). After a month-long trial, and following plaintiffs' rebuttal case, Shell renewed various dispositive motions, including motions for Judgment as a Matter of Law, and to strike expert testimony. The Court granted both motions, dismissing the case in its entirety.
- We represented **Seiko Epson** in one of the largest patent infringement cases ever filed with the International Trade Commission, asserting eleven patents and thirty-one claims against 1,000 different cartridge models sold by twenty-four manufacturers, importers and distributors of aftermarket ink cartridges for resale in the U.S. After a 7-day trial, the Administrative Law Judge **found for our client on every asserted patent and claim, against every single accused product that was adjudicated, and against every respondent** that had not already entered into a consent order, and based thereon, it issued a general exclusion order prohibiting all companies, whether or not they were parties to the ITC proceeding, from importing and selling infringing cartridges in the U.S.
- We represented limited partners of a **hedge fund** in a shareholder derivative arbitration against a hedge fund manager and his stockbroker sister based on claims of systemic fraud through post-execution allocations of securities trades over more than a decade. After an arbitration that spanned seven months, the arbitration panel, in a unanimous opinion, **awarded our clients \$75 million in compensatory and punitive damages**, which included \$35 million for disgorgement of compensation for the period of the fraud.

- We represented two German nationals who moved to Santa Barbara and sued media giant Bertelsmann AG and its former CEO. While working for Bertelsmann, these former executives had been the driving force behind the creation and development of AOL Europe, a joint venture between Bertelsmann and AOL. When Bertelsmann sold its interest in AOL Europe for \$6.75 billion, it refused to compensate plaintiffs. They asserted claims for breach of contract and breach of partnership agreement, among others. We obtained a **\$295 million verdict**. It was the seventh largest jury verdict in the nation that year.
- We represented **AOL's** subsidiary, **Tegic Communications**, in a patent suit against an infringing competitor. We were retained less than three months before the trial date, and after a three-week jury trial involving complex text input software technology, we defeated the attack on the validity of two Tegic patents and won a unanimous jury verdict of willful infringement and **\$9 million** in compensatory damages.
- We represented **Bancorp Services** in a suit against The Hartford Insurance company for stealing trade secrets and breaching a confidentiality agreement. After a two-week trial requiring that we explain sophisticated financial products to jurors, the St. Louis jury deliberated for less than a day and unanimously awarded Bancorp **\$118 million**.

## Settlements

- We represented **Infinity World**, a subsidiary of Dubai World, one of the world's largest holding companies, in its dispute against MGM MIRAGE over the funding of the \$8.5 billion CityCenter project in Las Vegas. A little over one month after we filed a complaint against MGM in the Delaware Chancery Court, MGM and CityCenter's lenders capitulated to Dubai World's demands. MGM agreed to fund its remaining equity contributions, to be solely responsible for potential cost overruns, and to pledge additional collateral as security for its funding obligations. CityCenter's lenders agreed to fund the full \$1.8 billion promised under CityCenter's senior credit facility. The settlement ensures that the CityCenter project, which is expected to be a powerful engine for growth and employment in Las Vegas and Nevada, will be completed.
- We represented **ING Bank** in a \$500 million fraud action against JPMorgan Chase, Bank One, Deloitte, PriceWaterhouseCoopers, and others arising out of a massive fraud in connection with the demise of National Credit Finance Enterprises. We also represent ING Bank as a member of the steering committee of the Litigation Trust. We have assisted ING Bank in recovering in excess of \$210 million.
- We represent about two dozen hedge funds, including international funds, grouped under four management entities -- **Elliott, Davidson-Kempner, Appaloosa, and Angelo Gordon** -- as plaintiff-holders of Yosemite and Enron Credit-Linked (ECLN) Notes in the Yosemite v. Citibank action in the Enron MDL. The

noteholders asserted fraudulent transfer claims against Citibank and collectively sought in excess of \$1.4 billion on those claims. With Citibank's motion for summary judgment pending, Citibank and Enron agreed to a joint settlement and our clients will receive in excess of \$2.1 billion in payments from the Enron bankruptcy estate.

- We were retained by **Solutia** virtually on the eve of its exit from its four-year Chapter 11 proceeding when the banks that had agreed to provide the necessary \$2 billion of exit financing (Citibank, Goldman Sachs and Deutsche Bank) refused to fund the loans claiming that the credit market downturn constituted a "materially adverse condition" (MAC) that enabled them to terminate the agreement. The issue we were brought in to litigate was whether Solutia or the banks bore the risk of the credit market downturn. The trial commenced after a month of expedited discovery in which we produced millions of documents, took and defended almost 30 depositions and prepared for trial. After three days of trial, and on the eve of closing arguments, the banks, who had previously refused to entertain settlement negotiations, indicated that they were eager to settle. Under the terms of the settlement, the banks were required to provide the \$2 billion in exit financing needed to fund the plan. The case is believed to be the first of its kind and is of great significance to the bankruptcy bar, financial institutions and companies in Chapter 11.
- We represent **Nokia**, a Finnish company that is the world's largest manufacturer of mobile cellular hand sets, in various cases against Qualcomm Inc., in what is probably the largest intellectual property litigation in the world. The firm was brought in to act as lead trial counsel in all US cases and is coordinating counsel with respect to the others. Qualcomm, based in California, develops and sells chip sets which are the "brains" of mobile hand sets. In a matter before the ITC, Qualcomm sought an exclusionary order that would have enjoined Nokia from importing its handsets into the United States. If successful, Qualcomm's complaint would have cost Nokia billions of dollars. We obtained an order denying Qualcomm's request. The judge denied Qualcomm's request for an exclusionary order under Section 337 and found that all three asserted patents were not infringed and that one of the patents was invalid under *KSR Int'l Co. v. Teleflex Inc.*, handing Nokia a complete defense victory, and allowing Nokia to continue to import hundreds of millions of handsets into the United States. We also represented Nokia or oversaw litigation in cases pending in Texas, Delaware, Wisconsin and California as well as cases pending in the U.K., France, Italy, Germany, Finland, Holland, and China. The litigation was widely covered by the financial press, and resulted in an extremely favorable settlement for Nokia.
- We are representing Dr. Enrico Bondi, Extraordinary Commissioner of **Parmalat S.P.A** in three separate \$10 billion lawsuits arising out of the largest bankruptcy in European history against various financial institutions and accounting firms, for aiding and abetting Parmalat's insiders in the commission of massive fraud and for

auditor malfeasance. We obtained a **\$150 million** settlement against Deloitte & Touche's Italian arm.

- We represented **MediaTek**, a young, billion-dollar Taiwanese company, in a series of patent disputes against Matsushita/Panasonic, one of them being in Marshall, Texas where we were the plaintiff. The Court denied defendant's motion seeking dismissal of that action and agreed that MediaTek owned patents it had asserted in the Eastern District of Texas and rejected an attempt by Matsushita to require the involvement of third parties in the action. Shortly thereafter, and with trial set to begin in another one of those actions in January 2008, Matsushita agreed to settle all pending lawsuits and dismiss its claims against MediaTek.
- We represented **twenty-three cell phone manufacturers** – including **Motorola, Samsung, Nokia and Sony Ericsson** – accused by the University of Texas of infringing a patent relating to text messaging using Touch-Tone telephones. The University alleged that the manufacturers infringed its patent by incorporating predictive text messaging software into over 400 models of cell phones. We obtained a complete defense verdict with a summary judgment motion on non-infringement. Several defendants – not represented by our firm – settled identical claims for \$3.27 for each cell phone sold in the United States. The potential liability to our clients therefore approached \$2 billion.
- We secured a settlement on securities and other claims in excess of **\$150 million** for our client, Chapter 11 debtor **Superior National Insurance Group**. Superior National was a holding company that purchased four workers compensation insurance companies from Foundation Health Corporation (now HealthNet, Inc.). The core allegation was that Foundation defrauded Superior by not disclosing certain financial and claims information that undermined its actuaries' reserve opinions. (We obtained an eight-figure settlement from the actuaries and an additional \$137 million settlement from HealthNet.)
- We obtained a settlement of **\$64 million** for a **class of nearly 3000 restaurants and restaurateurs** who charged Reward Network with usury and unfair business practices. After two and a half years of hard-fought litigation, Reward Network offered to settle, and the class members were eligible to receive a substantial package including cash, miles and complete forgiveness of remaining interest owed on their loans.
- We represented **General Motors** in a case against Volkswagen and GM's former head of sourcing in Detroit for stealing secret GM documents. Working closely with inside lawyers from GM, we amassed devastating evidence and defeated all Volkswagen's jurisdictional and substantive motions. On the eve of the Volkswagen chairman's deposition, we obtained a **\$1.1 billion** settlement for General Motors.

- We represented **ING Bank** and obtained a **\$35 million** settlement from a Big Four audit firm, which was seventy-five percent more than the settlements obtained by any of the other plaintiffs.
- We represented **Unova** before the Federal Circuit who unanimously reversed a judgment in Hewlett Packard's favor and instead ordered summary judgment in favor of our client. Thereafter, the case was settled for **\$23 million** only days prior to trial, when HP paid for a license under the patents, joining ten other companies who licensed the patents after suit was filed. Pursuant to those licenses, Unova has obtained almost a quarter billion dollars to date.
- We represented two **Micron** entities, and settled group boycott and price-fixing claims brought by Tessera, Inc., who was seeking over \$300 million. We settled for a **fraction of the claimed damages**.