

quinn emanuel trial lawyers
quinn emanuel urquhart & sullivan, llp

Recent Appellate Representations

UNITED STATES SUPREME COURT:

- We represented **Roche** in a patent infringement case brought by Stanford University for infringement of Stanford HIV patents relating to viral load and AIDS therapy decisions. Roche initially asserted that it owned the patents because the patents arose from a collaboration between Stanford and Roche's predecessor, Cetus Corporation. The district court denied this defense. After extensive litigation and claim construction, Roche moved for—and the court granted—summary judgment that the Stanford patents asserted against Roche were invalid because they were obvious in light of the prior art. The lead prior art reference was a joint publication between Stanford and Cetus in the *Journal of Infectious Diseases*. On appeal, the Federal Circuit agreed with our defense that Roche was a co-owner of the patents in suit due to the collaboration. With the support of the Solicitor General's office, Stanford petitioned the United States Supreme Court for certiorari, which was granted. Rejecting Stanford's effort to void its prior contracts based on its receipt of federal funding for research, the Supreme Court agreed with Roche and ruled 7-2 that Stanford must abide by its contracts and that the Bayh Dole Act—the statute governing federal research funding—does not give automatic ownership of patents to universities.
- We secured an important 6-2 victory for **Wyeth LLC** (whose parent is Pfizer Inc.) in the U.S. Supreme Court in *Bruesewitz v. Wyeth*, which held that a federal statute preempts state-law causes of action based on theories of defective design in governmentally-approved child vaccines. The decision has significant implications for public health and the vaccine supply, as it removes design-defect claims that if permitted would have increased manufacturers' costs and depressed vaccine supply and development.
- We filed a successful cert. petition and represented **Shell Oil Company** in an 8-1 victory in the U.S. Supreme Court in *Burlington Northern & Santa Fe Railway v. United States*, which held that Shell cannot be held liable as an "arranger" of hazardous waste disposal under CERCLA merely for shipping useful chemicals.
- We filed a successful cert. petition and represented a **Japanese ocean carrier** in a victory in the U.S. Supreme Court in *Kawasaki Kisen Kaisha Ltd. v. Regal-Beloit Corp.*, which held in a unanimous portion of the opinion that ocean carriers are not subject to regulation as rail carriers merely because they make overseas intermodal shipments that include a domestic rail leg. The Court also held, by a 6-3 margin, that contracts for overseas intermodal shipments are enforceable under laws governing ocean transportation even when the terms governing the domestic leg conflict with laws governing liability for losses in domestic rail transportation.

- In *Granholm v. Heald*, our lawyers obtained a 5-4 victory in the U.S. Supreme Court on behalf of **California vintners and Michigan consumers** challenging state laws imposing discriminatory restrictions on interstate shipments of wine. The Court held that the Twenty-First Amendment does not give states license to interfere with the national market in a way that violates the Dormant Commerce Clause.
- We filed an amicus brief on behalf of the **New York Stock Exchange** and **NASDAQ** in *Stoneridge Investment Partners*, the U.S. Supreme Court decision rejecting judicially implied private rights of action against third-party vendors under the securities laws. The brief, which the Court expressly cited in its opinion, argued that allowing such “participant” liability would weaken the global competitiveness of the nation’s capital markets by raising the cost of doing business with publicly traded companies.
- We have filed amicus briefs supporting the prevailing position in numerous patent cases before the U.S. Supreme Court, including *eBay v. MercExchange*, *KSR v. Teleflex*, *Labcorp v. Metabolite*, and *Quanta Computer v. L.G. Electronics*. Our clients on these briefs have included **Time Warner, AOL, Amazon, Viacom, Google, Cisco, Xerox, IAC/Interactive, Infineon, Chevron, Shell, Visa, and Affymetrix**.
- We have filed amicus briefs *pro bono* in the U.S. Supreme Court on behalf of the American Association of University Professors; former Secretary of State Madeleine Albright; four former Secretaries of the Interior; the Attorneys General of twenty-seven States and the District of Columbia; and the Conference of Chief Justices.

LOWER FEDERAL AND STATE APPELLATE COURTS:

ALIEN TORT STATUTE

- We represented **The Coca-Cola Company** in the Eleventh Circuit, successfully defending the district court’s dismissal of a complaint asserting claims under the Alien Tort Statute and Torture Victims Protection Act arising out of violence committed by Colombian paramilitaries in and around the Colombian plants of The Coca-Cola Company’s Colombian bottling partners. In a published decision, the Eleventh Circuit held that the plaintiffs had failed, under the Supreme Court’s decision on pleading standards in *Ashcroft v. Iqbal*, to allege a link between the paramilitaries and the Colombian government that adequately satisfied the state-action element of these statutes.
- We also represented **The Coca-Cola Company** in the Second Circuit, successfully defending the district court’s dismissal of a complaint asserting ATS and other claims under the *forum non conveniens* doctrine. The complaint concerned police action against union members that occurred in Istanbul, Turkey, allegedly at the behest of The Coca-Cola Company’s Turkish bottling partner. The Second Circuit affirmed the district court’s dismissal on the ground that virtually all of the relevant evidence and witnesses were to be found in Turkey.

ARBITRATION LAW

- We represented **Ortho-McNeil**, a Johnson & Johnson subsidiary, in a unanimous victory that made an important new law narrowing “manifest disregard of the law” almost to the vanishing point as a ground for district court vacatur of arbitral awards. Some courts have treated this ground as a freestanding warrant to vacate arbitral awards for purported legal error even though it falls outside the statutory criteria in the Federal Arbitration Act. The Seventh Circuit flatly rejected such an approach, reversing the district court’s partial vacatur of the award and remanding for full confirmation of an award that favored Ortho in a dispute over inventorship and ownership of two patent families relating to new biological drugs for the production of red blood cells—products potentially worth billions of dollars in annual sales.
- We obtained a victory in the United States Court of Appeals for the Ninth for **Sequus Pharmaceuticals, Inc.**, a subsidiary of **Johnson & Johnson**. The appeal decided a question of first impression: whether a district court has removal jurisdiction under the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 9 U.S.C. § 201 et seq., over a case in which the defendant raises an affirmative defense related to a foreign arbitral award. In a unanimous published opinion, the Ninth Circuit adopted wholesale our argument that the removal provision of the New York Convention should be construed broadly (unlike most removal provisions) so that it provides a meaningful shield against litigation that seeks an end run around foreign arbitration. Since Sequus had raised the Israeli arbitral award (which indisputably fell under the New York Convention) as part of its affirmative defense of collateral estoppel, the court upheld removal of the case to federal court.

BUSINESS CONTRACTS, TORTS, INSURANCE AND SECURITIES

- We represented ninety-year-old, disabled **World War II veteran** in successful defense of a judgment vacating the transfer of over 1,000 acres of ocean front property north of Malibu based upon the exercise of undue influence, restoring to our client real estate estimated to be worth up to \$200 million. Acting on an expedited basis, the California Court of Appeal unanimously affirmed the judgment less than a week after oral argument.
- When a \$12 million trial judgment was levied against two insurers for supposed coverage of losses to restaurants over feared contamination of fresh spinach, we successfully obtained a complete reversal in the California Court of Appeal. The win for **QBE Insurance (Europe) Limited** and **Beazley Syndicate 2623/623 at Lloyd’s** recognized that the definition of “Insuring Event” in the insurance contract at issue incorporated a causation requirement and thus required that the insured conduct rather than marketwide events caused the losses. The decision was a major victory for insurers concerned about extending coverage to events affecting an entire industry.
- We represented insurer **CNA** in an appeal before the Nevada Supreme Court from a \$43 million product liability award, the largest in that state’s history.

- We represented several subsidiaries of **AIG** in successfully overturning a \$34 million judgment against them in a reinsurance dispute. Taking the unusual step of overturning a jury verdict, the Second Circuit unanimously held that the claims against our clients were barred by the statute of limitations.
- We represented **Oracle Corporation** in the Ninth Circuit, obtaining a unanimous published decision upholding summary judgment in favor of Oracle in a long-running securities class action concerning a drop in stock price just after the beginning of the 2001 recession. In this case, Kathleen Sullivan was brought in just a month before oral argument to work with trial counsel in obtaining the win.
- We represented Koch Industries' **INVISTA** subsidiaries in obtaining dismissal of an appeal by French chemicals firm Rhodia S.A, which had attempted to obtain a stay of litigation in favor of a foreign arbitration. The decision allowed INVISTA's claims against Rhodia over rights to an important nylon process to move forward in Delaware state court while the foreign arbitration, involving two Rhodia affiliates and one of the three INVISTA plaintiffs, proceeds simultaneously.
- After being retained on appeal to represent **Allegheny Energy** before the Second Circuit after an adverse bench trial judgment in a complex commercial contract dispute, we obtained a complete victory that not only overturned a \$158 million judgment against Allegheny but also reinstated \$350 million in counterclaims by Allegheny against Merrill Lynch. On remand, we took over as trial counsel for Allegheny and secured a favorable settlement.
- In a victory for **Empresas Cablevisión**, a subsidiary of Mexico's Grupo Televisa, the world's largest Spanish-language media company, we obtained and upheld on appeal to the Second Circuit injunctive relief barring JPMorgan from transferring an interest in a loan to a bank controlled by Mexican billionaire Carlos Slim, owner of a company that competes directly with Empresas Cablevisión in the market for media services. The decision led JPMorgan to consent to repurchase the loan interest it had sold to the Slim bank. The court rulings made front-page news in *The Wall Street Journal* and *The New York Times*.
- We also represented **Grupo Televisa** in a case against Florida-based Telemundo for tortious interference with Televisa's exclusive agreement with one of Spanish-language television's biggest stars. After the U.S. District Court for the Southern District of Florida granted summary judgment to Telemundo, holding that Televisa's claims were governed by Mexican law, which does not recognize the interference tort, we convinced an Eleventh Circuit panel to reverse unanimously in a decision with broad ramifications for the many Latin American companies that do business in Florida.
- We successfully upheld on appeal a \$30 million judgment against the Town of Mammoth Lakes that our trial lawyers obtained on behalf of real estate investors in an action for breach of a development contract. The Third District of the California Court of Appeal unanimously upheld the jury's verdict on both liability and damages.

- We represented **212 Investment Partnership** in a suit against an attorney who fraudulently preferred personal transactions above those of the partnership he represented. The trial court had dismissed claims against the attorney on statute of limitations grounds, and we convinced the New York Appellate Division to reverse and reinstate the claims.
- We represented **AOL Time Warner** in the Homestore.com securities litigation, successfully arguing at the district court, on appeal to the Ninth Circuit, and again on remand that Section 10(b) and Rule 10b-5 of the securities laws do not permit third-party “participant” liability—anticipating the successful outcome of the *Stoneridge Investment Partners* decision in the U.S. Supreme Court.
- We were asked by the Second Circuit to brief and present oral argument as amicus curiae on behalf of individual *pro se* debtors in a case involving an issue of first impression under the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, providing the court with a counterweight to the analysis of the United States Trustee.

CONSTITUTIONAL LAW AND CIVIL RIGHTS

- We represented **New York Governor David Paterson** and **Lieutenant Governor Richard Ravitch** in a victory the New York Times called “stunning,” obtaining a 4-3 victory in the New York Court of Appeals holding that Mr. Paterson had the authority to appoint a Lieutenant Governor to fill a vacancy in that office. Quinn Emanuel litigated this high-profile case from start to finish in just over two months, during which time it was regular front-page news in the New York legal press.
- We represented the **Kamehameha Schools**, the world’s largest private K-12 educational trust, obtaining an en banc victory in the Ninth Circuit, by a vote of 8-7, holding that the Schools do not engage in “race discrimination in contracting” in violation of 42 U.S.C. § 1981 by giving an admissions preference to the Native Hawaiian schoolchildren for whose benefit they were founded by one of Hawaii’s last monarchs.
- We represented a *pro se* plaintiff whose complaint alleging race discrimination under the Fair Housing Act had been dismissed and persuaded the Second Circuit that no heightened pleading requirement exists for civil rights complaints alleging racial discrimination.

COPYRIGHT

- For our client **Google**, Quinn Emanuel successfully obtained a decision in the Ninth Circuit Court of Appeals upholding district court orders that Quinn Emanuel had obtained in favor of Google. At issue were Perfect 10's claims of copyright infringement seeking to shut down Google's popular Web Search, Image Search and Blogger services. The Ninth Circuit affirmed the district court's order denying plaintiff Perfect 10's motion for a preliminary injunction and left intact a summary judgment for Google holding that Google was entitled to safe harbor under the DMCA with respect to the entirety of Perfect 10's copyright infringement claims directed to Blogger and Image Search, and more than 98% of Perfect 10's claims regarding Web Search.

- We represented **Google** and **Twitter** as amicus in the Second Circuit in a successful effort to narrow the tort of "hot news" misappropriation.
- We successfully defended **Time Warner Entertainment and HBO** against a \$56 million copyright infringement action alleging theft of the ideas for the television show "Six Feet Under." After we won summary judgment on the ground that any similarities to the plaintiff's screenplay were too abstract to be copyrightable, the Ninth Circuit affirmed in a published opinion that is now the leading articulation of the proper procedure for evaluating such claims in a television or motion picture context.
- We successfully defended **The Walt Disney Company** and **Pixar Animation** in an appeal from the dismissal of a copyright and unfair competition action relating to the hit movie "Finding Nemo." The Ninth Circuit unanimously affirmed.

CRIMINAL LAW

- We successfully obtained reversal of an individual white-collar conviction in the United States Court of Appeals for the Second Circuit where our client was charged with violating the Iranian trade embargo and operating an unlicensed money transmitting business based on his receipt of family funds sent from Iran through an informal money transfer system called a hawala. In a unanimous published opinion, the Second Circuit held that the ITR do not unambiguously prohibit non-commercial remittances, including family remittances, between the United States and Iran, and that the district court had erred in declining to instruct the jury that a "money transmitting business" must be an enterprise, not a single transaction as well as in improperly equating operation of a hawala with operation of a money transmitting business.
- We represented Adam Miranda, an inmate who had been on death row since 1982. After two decades of post-judgment litigation, we persuaded the California Supreme Court to grant a writ of habeas corpus vacating the death penalty imposed on the inmate based on exculpatory evidence that the prosecution failed to produce to the defense. Although the Supreme Court ordered a new penalty phase, the State declined to again seek the death penalty against Mr. Miranda.

ENVIRONMENTAL LAW

- On behalf of intervenor **PG&E**, we upheld the Nuclear Regulatory Commission's decision to permit PG&E to move spent nuclear fuel into dry cask storage at its Diablo Canyon nuclear power plant near San Luis Obispo, California. A petition for review was filed in the Ninth Circuit by local activists who argued that the Commission had violated the Atomic Energy Act (AEA) and the National Environmental Policy Act (NEPA) by denying it access to classified information about limiting the effects of a terrorist attack and issuing an inadequate environmental assessment. In an unanimous opinion, the Ninth Circuit held that neither NEPA nor the AEA required the Commission to hold a closed hearing affording

access to classified information and that the Commission's environmental assessment was sufficient.

- We represented **Shell Offshore Inc.** and **Shell Gulf of Mexico Inc.** in expedited proceedings in the Ninth Circuit upholding the Mineral Management Service's approval of Shell's plans for exploratory drilling for oil and natural gas in the Alaskan Arctic. In a unanimous memorandum opinion issued only a week after oral argument, the Ninth Circuit denied petitions for review by several environmental NGOs under the National Environmental Policy Act and the Outer Continental Shelf Lands Act.
- We represented the **Alliance of Automobile Manufacturers** in appeals before both the Second and the Ninth Circuits, in which we argued that federal fuel economy laws preempted state authority to regulate greenhouse gas emissions. Seeking to overturn district court judgments in Vermont and California, we argued that federal law commits the task of balancing fuel conservation against the economic impact on the auto industry to the federal government, not the states. The appeals were ultimately mooted by new federal legislation that raised federal fuel economy standards.

PATENTS

- We obtained a complete victory for **Sony Electronics Inc.** ("Sony") and 15 other defendants in a patent infringement action in the Eastern District of Texas and the Federal Circuit against Intellectual Capital Holdings Limited ("ICHL"). In a case that had far reaching damages implications for Sony and other manufacturers of computers, gaming consoles, televisions and any other products that use a heat sink to reduce internal heat, we convinced the Magistrate Judge, District Court Judge, and the Federal Circuit that the defendants' products did not infringe ICHL's patent.
- 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.
- We obtained a complete reversal of a \$12 million patent infringement judgment on behalf of **Yahoo! Inc.** The plaintiff alleged that the Yahoo! Instant Messenger feature called "IMVironments" infringed a patent on displaying advertisements in the background of electronic messages. The trial in the Eastern District of Texas, at which Yahoo! was represented by another firm, resulted in a finding of willful infringement and no invalidity, and the district court ordered a 23% ongoing royalty. On appeal, we persuaded the Federal Circuit that the district court erred by not resolving a key claim construction dispute and not granting Yahoo!'s motion for judgment as a matter of law of no infringement.
- We represented **American Express Co.** in a patent infringement action targeting its gift card products, in which plaintiff PrivaCash sought over \$100 million in past damages and future royalties. The firm obtained a dismissal of codefendant American Express Incentive

Services, LLC ("AEIS") early in the case after proving that AEIS's gift cards were distributed and sold in the business-to-business environment and therefore could not infringe plaintiff's patent. We then sought and secured a favorable claim construction ruling for remaining defendant American Express, and shortly thereafter filed a motion for summary judgment of non-infringement. Approximately one month before trial, the Court granted American Express's motion and entered summary judgment of non-infringement in favor of American Express. On August 11, 2011, after full briefing and oral argument, the Federal Circuit affirmed the District Court's summary judgment of non-infringement in favor of American Express.

- We achieved a complete defense victory in a biotech patent case relating to genetic testing for an iron disorder. We obtained a ruling that one patent was invalid for failing the written description requirement of the patent laws, and another patent was invalid over prior art. This successful judgment was affirmed in a precedential opinion in the Court of Appeals for the Federal Circuit on April 29, 2011.
- We represented **Genentech, Inc.** in a patent infringement suit initially brought by Sanofi-Aventis Deutschland in the Eastern District of Texas. Sanofi sought damages on Genentech's Rituxan® and Avastin® products, which earn billions of dollars in revenues. After obtaining a petition for writ of mandamus from the Federal Circuit transferring the case to the Northern District of California, the district court adopted virtually every claim construction advanced by Genentech and then granted summary judgment of non-infringement of all asserted claims.
- We won a Rule 36 affirmance from the Federal Circuit of the Southern District of New York's JMOL of obviousness in *Infosint S.A. v. H. Lundbeck A/S, Lundbeck, Inc., Forest Laboratories, Inc., and Forest Pharmaceuticals, Inc.* The district court had ruled that no reasonable jury could fail to find the asserted patent claim invalid due to obviousness by clear and convincing evidence. The Federal Circuit affirmed, and did so decisively, issuing a Rule 36 affirmance 3 days after the appellate oral argument. The district court JMOL and Federal Circuit affirmance eliminated a claim for damages and ongoing royalties of over \$600 million, and removed the possibility of an injunction barring the sale of Lundbeck and Forest's antidepressant drugs CELEXA® and LEXAPRO®, which have over \$2 billion in annual U.S. sales.
- On behalf of **Google** and **AOL**, we won affirmance of summary judgment of non-infringement in a patent infringement litigation in which the patent-in-suit was asserted against the Defendants in September 2007 by Performance Pricing Inc., an Acacia entity. Performance Pricing had accused Google's AdWords and AOL's Search Marketplace systems of infringing the patent, which involved a method of doing business over the Internet "wherein various forms of competition and/or entertainment are used to determine transaction prices between buyers and sellers.
- We obtained a complete victory for **Cisco** in a closely watched patent infringement dispute. The plaintiff, a patent holding company, asserted a patent on a method for Voice over Internet Protocol telephony against Cisco's line of Integrated Services Routers. After discovering that the invention had been conceived while the inventor was subject to an

invention assignment agreement with his former employer, we successfully moved to dismiss the complaint for lack of standing'. The Federal Circuit unanimously affirmed.

- We won affirmance of summary judgment of non-infringement for **Google** in a patent infringement litigation in which the 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.
- We represented **Nike** in its defense of a \$40 million design patent and trade dress action brought by a rival shoe company over the translucent heel piece on Nike's Air Jordan XVII basketball shoe. After our consumer survey persuaded the plaintiff to dismiss its trade dress claim, the court adopted our proposed patent claim construction on the design of the heel piece and granted summary judgment of non-infringement to Nike. We then represented Nike on appeal. Following a nearly hour-long argument centered on the use of broken lines to signify boundaries in design patents, the Federal Circuit affirmed the judgment in our client's favor.
- We represented **Brøderbund Software** and **Intuit Inc.**, two of the largest U.S. consumer software publishers, in *Interactive Gift Express, Inc. v. CompuServe Inc.*, widely recognized as the test case concerning business method patents and claims of ownership to Internet commerce. Apart from prevailing sufficiently to obtain summary judgment on remand, the case also established numerous appellate standards for the Federal Circuit, including those governing judicial estoppel and waiver in appeals from a district court's claims construction.
- We represented **GameTech International** in *Planet Bingo LLC v. GameTech International, Inc.*, where the Federal Circuit established a new standard for determining infringement under the doctrine of equivalents that focused the analysis on the foreseeability of the asserted equivalent, before affirming a pre-trial judgment in favor of Gametech on both non-infringement and invalidity grounds.
- We represented **Bancorp Services** in a case where the Federal Circuit reversed a trial court's finding of invalidity of our client's patent. In obtaining reversal, our lawyers faced an opposing appellate team that included two former Solicitors General of the United States.
- We represented a **global telecommunications company** in a case claiming infringement of patents covering basic telecommunications technology used in cellular telephones. In an appeal to the Federal Circuit, we obtained a ruling that the arbitrability of certain licensing issues was for the arbitrator to decide and set the standard for review for such issues.
- We obtained a per curiam affirmance by the Federal Circuit for **Epson** of exclusion and cease-and-desist orders issued by the International Trade Commission finding that certain printer ink cartridges manufactured in China and elsewhere infringe upon Epson's patents and prohibiting their importation into the United States.

- Just one day after oral argument, the Federal Circuit affirmed our defense jury verdict of patent invalidity and non-infringement for **RealNetworks** in a five-week trial in which the plaintiff had sought in excess of \$200 million in damages.
- We successfully defended a summary judgment order on behalf of cellular telephone companies **Motorola, Inc.**, **BenQ America Corp.**, and **Hon Hai Precision Industry Co., Ltd.**, and **Chi Mei Communication Systems, Inc.** in an appeal before the Federal Circuit. The Federal Circuit unanimously adopted the claim construction we urged.
- We represented **Netscape Communications Corp** and **AOL** in a declaratory judgment action seeking to invalidate a patent that effectively claimed the internet itself. The district court granted the declaratory judgment plaintiffs' motion for summary judgment under the on sale bar and public use doctrines. The patentee appealed. After briefing and argument, we obtained a complete affirmance from the Federal Circuit.

TRADEMARKS

- We successfully represented an agency of the **Russian Government** in an appeal to the Second Circuit concerning the rights to the STOLICHNAYA trademarks, which have been valued at more than \$1 billion. Our client contends that rights to the trademarks were stolen from the Russian people in the chaos following the dissolution of the Soviet Union, but the district court dismissed the claims on the ground that the STOLICHNAYA trademarks had become incontestable under the Lanham Act. The Second Circuit reversed, unanimously holding that ownership of an incontestable trademark may be challenged based upon defects in the current holder's chain of title, and reinstating our clients' claims to the STOLICHNAYA trademarks for further proceedings in district court.
- We successfully represented **George V** and **Creative Designs**, owners of the world-famous (and federally-registered) **BUDDHA-BAR** trademark and proprietary restaurant concept in a case they brought against their former licensee for trademark infringement and dilution regarding their unauthorized use of the BUDDHA BAR trademark and concept in connection with a Manhattan restaurant. The New York Appellate Division, First Department, reversed the trial court's denial of our clients' motion for preliminary injunction and held that the small disclaimer placed on defendant's website was not sufficient to dispel likely consumer confusion.
- We won an appeal in the Third Circuit on behalf of **LendingTree** arising in the context of a trademark and false advertising suit filed in New Jersey federal court by a competitor to shut down LendingTree's marketing of an innovative online real estate broker network. Presenting an issue of first impression in the Third Circuit, we persuaded the court to adopt a modified version of the doctrine of "nominative use" as a defense to trademark infringement, resulting in the vacatur of a preliminary injunction issued by the district court.
- We represented the **Washington Redskins** in the long running case brought by six Native American petitioners who challenged the Washington Redskins' trademarks on grounds of disparagement. In a little used "de novo" appeal to the D.C. District Court, we succeeded in

overturning an adverse decision by the Trademark Trial and Appeal Board. We then successfully defended that decision on grounds of laches before the D.C. Circuit and on remand to the District Court, thereby ending nearly two decades of litigation.