



Recent Sports Representations

- We represented **The Upper Deck Company** in a suit brought against it by CMG Worldwide and The Topps Company, Upper Deck's largest competitor in the baseball trading card business, for allegedly using various images and signatures of deceased baseball players that had previously been licensed to Upper Deck but were then exclusively licensed to Topps. Topps applied for and received an ex parte temporary restraining order that, if converted to a permanent injunction, would have prevented Upper Deck from selling any baseball cards in 2008. Days later, we successfully overturned the TRO, subsequently defeated Topps' motion for a preliminary injunction, and eventually obtained a transfer of the case to the Southern District of New York. The case settled promptly after the transfer.
- We represented the **Dallas Cowboys** Football Club (the "Cowboys") and NFL Properties LLC ("NFLP") in a dispute concerning ownership of the trademark **AMERICAS TEAM** in federal district court in Dallas, Texas. The Defendant in the case, a Minnesota-based company, claimed that it owned the rights to the famous trademark because it had obtained a federal registration in 1990. We were tasked with proving that the Cowboys rights in "America's Team" were superior to those of Defendant, notwithstanding that the Club did not itself own a federal trademark registration for the mark. In a forty-page decision the Court granted the Cowboys and NFLP summary judgment on all claims, finding that they had proven federal and common law trademark infringement, unfair competition, dilution and that Defendant had committed fraud on the on the United States Patent and Trademark Office.
- We represented **Major League Soccer** in a reverse confusion case wherein a soccer club named the Carolina Dynamos, seek to undo the new nickname of an MLS team, the Houston Dynamos.
- We represent the **Washington Redskins** in a long running challenge by six Native American petitioners to the Washington Redskins' trademark registrations. We employed the infrequently used "de novo" appeal to the D.C. District Court to overturn an adverse decision by the Trademark Trial and Appeal Board. The decision was appealed by the Native Americans to the D.C. Circuit, which found no abuse of discretion and affirmed the grant of summary judgment in all respects. The petitioners next filed a petition of certiorari with the U.S. Supreme Court, arguing that the Circuit Courts are split as to whether laches is available as a defense to the cancellation of an allegedly disparaging trademark. Quinn Emanuel opposed the petition, arguing that no such split existed. The U.S. Supreme Court denied the petition in November 2009, thus ending the case.

- We represent the **National Football League** and the **Baltimore Ravens** in another action brought an armature artist who had previously sued the Ravens for copyright infringement. In this action, the artist sued the club seeking to enjoin any display of the logo, including in historical footage of the Ravens' 1996-1998 seasons, and the destruction of any material bearing the logo. Quinn Emanuel argued that the displays and material that the artist sought to enjoin were historical in nature and protected by the doctrine of fair use. After holding a bench trial the court found in the Ravens' favor, holding that "the uses at issue have an essentially historical purpose and character." The artist has since appealed the dismissal of his claims. Briefing on the appeal, which is also being handled by Quinn Emanuel, is complete, and argument before the Fourth Circuit was held in December 2009.
- We represent the **Mexican National Football Team** in an unfair competition case against a calling card company who employed indicia on product and promotional materials corresponding to the official jersey of the team.
- We represented the owner of the rights to the **Heisman Trophy** when an athletic club claimed breach of contract. In addition to restoring the marketing and television rights, the client obtained specific performance of the contract and was also awarded damages for the breach.
- We represented the **National Football League** and the **Cleveland Browns** in a trademark infringement case against an apparel company over use of the "Dawg Pound" brand and logo. Obtained summary judgment on trademark priority.
- We represented **ESPN** and **Orley Adelson Productions**, in a trademark infringement action brought by Playmakers LLC, concerning the use of "Playmakers" in the title of a critically acclaimed television series concerning the off-field lives of professional football players. The Plaintiff alleged that ESPN's "Playmakers" series amounted to reverse confusion and overwhelmed its sports agency brand, causing consumers to believe that its agency was owned by or affiliated with ESPN. A preliminary injunction was denied in a federal district court and later affirmed by the Ninth Circuit. The district court later granted ESPN's motion for summary judgment which was upheld by the Ninth Circuit.
- We represented **Nike** when adidas prevailed on claims in Europe that Nike's use of two stripes on apparel infringed adidas's three-stripe trademark. We filed a complaint on Nike's behalf in the District Court of Oregon seeking a declaration that Nike was entitled to use two stripes and other decorative striping on apparel and footwear in the United States. After we positioned the case to put the scope of adidas's three-stripe mark at issue, adidas conceded the case and filed a broad covenant not to sue Nike in the United States over apparel and footwear products incorporating a wide variety of multi-stripe designs, including all Nike two-stripe products.
- We represented the **National Football League** and the **Green Bay Packers** in a trademark infringement and trade secret case against a company that had obtained publicity rights from various Packers players to use their names and numbers on

football jerseys. Notwithstanding that the defendant had obtained those rights from the players, because it had not received approval from our clients, the jury in Milwaukee rendered a verdict in our favor, which was upheld by the Seventh Circuit.

- We represented **ESPN**, the owner and creator of the nation's premier action sports competition known as the **X GAMES**, in an action for trademark infringement in federal court in New York against **THE X CHANNEL, INC.**, which intended to launch a national television channel featuring action sports. After obtaining a temporary restraining order, the court quickly set a preliminary injunction hearing and the case settled promptly.
- We represented the **National Football League** and the **Baltimore Ravens** against claims, in the billions, of copyright infringement, brought by an amateur artist regarding the Raven's helmet logo. After the jury had found for the plaintiff on liability, we were brought in to try the damages case. We obtained a jury verdict of zero damages and persuaded the jury that the logo infringed did not drive any revenue generating activity but, rather, such large revenues were solely the result of the inherent power of the NFL brand and the sport itself. The verdict was affirmed by the Fourth Circuit and the Supreme Court denied cert.
- We represented **ESPN**, winning a reverse confusion appeal in the Ninth Circuit against a claim that a sports agency with a federal registration for the mark "Playmakers", had priority over ESPN's use of "Playmakers" for its popular television program of the same name.