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The Fair Use Frontier: Copyright Law in the Age of AI and Machine Learning

Introduction

2023 was the breakout year for generative artificial intelligence (AI). This branch of AI and machine learning uses generative models to create new content, such as text, images, music, or video. These models are trained on massive amounts of data to produce a neural network that encodes statistical information such as word frequencies, syntactic patterns, and thematic markers. Based on a user's prompt, the neural network can produce creative output based on the training data.

Generative AI has many applications, such as art, writing, design, healthcare, gaming, and marketing. But it has spurred just as many lawsuits. The growth of generative AI has been the source for myriad lawsuits claiming that the training process for generative models infringes copyrights in written and visual works. For example, on September 12, 2023, a class of author plaintiffs sued Meta Platforms for copyright infringement in the Northern District of California because Meta's "LLaMA" (Large Language Model Meta AI) allegedly "copied and ingested" plaintiffs' copyrighted protected works as part of its training. A class action was also brought against Stability AI in the same court for copyright infringement on January 13, 2023 because Stability AI allegedly infringed plaintiffs' copyrighted works in the process of training its generative AI model, Stable Diffusion.

It is anticipated that the doctrine of fair use will feature prominently in these lawsuits. Indeed, on August 30, 2023, the U.S. Copyright Office published a notice of inquiry and request for comments as part of its "study of the copyright law and policy issues raised by artificial intelligence." 88 Fed. Reg. 59942 (Aug. 30, 2023). The notice includes over 30 questions related to the topic of artificial intelligence, of which six are specifically on the doctrine of fair use. For example, the Copyright Office asks, "Under what circumstances would the unauthorized use of copyrighted works to train AI models constitute fair use?" 88 Fed. Reg. 59942, 59946.

As we await legislative and legal guidance from the Copyright Office and courts on how fair use will be applied to generative AI, this article reviews the historical application of fair use by the courts in other cases of alleged copyright infringement involving novel technologies.

Fair Use Doctrine

The motivating purpose of copyright is "to promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries." U.S. Constitution Article I, §8, cl. 8. The law of copyright aims to find a fair balance between the rights of creators and inventors to profit from and control their works and inventions, and the rights of society to access and use ideas, information, and commerce.

Fair use is an affirmative defense under the Copyright Act rooted in the dual purpose of copyright to motivate the creativity of authors and advance public welfare through access to expressive works. *Campbell v. Acuff-Rose Music, Inc.*, 510 U.S. 569, 590 (1994) (clarifying that "fair use is an affirmative defense"). As stated succinctly by the Supreme Court,

(continued on page 2)

INSIDE

Quinn Emanuel Welcomes New Partner Class *see page 12*

The firm recently announced that it had elected 14 lawyers to its partnership, effective January 1, 2024, ten of them women. The new partners include lawyers across the globe, from Boston to Beijing.

a person "who makes a *fair use* of the work is not an infringer of the copyright with respect to such use." *Sony Corp. of Am. v. Universal City Studios, Inc.*, 464 U.S. 417, 433 (1984) (emphasis added).

Under the Copyright Act, certain uses of copyrighted works are classified as non-infringing fair use: criticism, commentary, news reporting, teaching, scholarship, and research. 17 U.S.C. § 107 (2019). This list is non-exhaustive, however, and the Supreme Court has held that the doctrine "permits and requires courts to avoid rigid application of the copyright statute when, on occasion, it would stifle the very creativity which that law is designed to foster." *Campbell*, 510 U.S. at 577. Fair use therefore is not amenable to simplification with bright-line rules—rather, the doctrine calls for a case-by-case analysis enabled by four statutory factors:

(1) the purpose and character of the use,
(2) the nature of the copyrighted work,
(3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole, and
(4) the effect of the use upon the potential market for or value of the protected work.

17 U.S.C. § 107. None of the factors individually are dispositive in determining fair use. *Harper & Row Publishers*, 471 U.S. 539, 549 (1985). The concept of fair use is, therefore, "flexible" and as a result has been courts' go-to doctrine for handling copyright issues arising in "significant changes in technology." *Oracle America, Inc. v. Google LLC*, 141 S. Ct. 1183, 1197 (2021).

Fair Use's Interaction with Cutting-Edge Technologies

The flexible contours of the fair use doctrine are well illustrated through four instances where courts have applied the doctrine to novel technologies spanning the mid-80s to the present.

A. Video Recordings – *Sony v. Universal Studios* (1984)

Background. In *Sony Corporation of America v. Universal City Studios, Inc.*, Plaintiffs Universal Studios, Inc. and Walt Disney Productions were producers and owners of registered audiovisual works. Defendant Sony made and sold Betamax video tape recorders, primarily used for "time-shifting," or the practice of recording a program to view it at a later time. Plaintiffs alleged that Sony violated their copyrights because Betamax custumers were recording plaintiffs' copyrighted works that had been showing on commercially sponsored television. *Sony*, 464 U.S. 417 (1984).

Holding. Although the Court invoked fair use to find that Sony was not liable for copyright infringement, the fair use analysis was limited. Indeed, the Court borrowed from patent law's doctrine of "substantial non-infringing use," which stands for the proposition that there is no infringement if a product is widely used for a legitimate, unobjectionable purpose. *Id.* The analysis foreshadowed the Court's willingness to flexibly apply the fair use doctrine to fit the technology at issue.

B. Thumbnails - *Perfect 10 v. Amazon* (2007)

Background. Thirty-seven years after *Sony* came *Perfect 10 v. Amazon*. 508 F.3d 1146 (9th Cir. 2007). Perfect 10 sought a preliminary injunction to prevent Google from allegedly copying, reproducing, distributing, publicly displaying, adapting, or otherwise infringing, or contributing to the infringement of Perfect 10's copyrighted images; linking to websites that provide full-size infringing versions of Perfect 10's images; and infringing Perfect 10's username/password combinations.

The technology at issue in *Perfect 10* was Google's image search which provides responses to user queries in the form of images from its index of websites. The images are in the form of "thumbnails," or small images stored in Google's servers that are reduced, lower-resolution versions of their full-sized counterparts stored on third-party computers. Defendant Perfect 10 was a company that marketed and sold copyrighted images of nude models. It offered paid password protected accounts for subscribers to view images on its website.

Holding. The Ninth Circuit began by remarking that the Court "must be flexible in applying a fair use analysis." *Id.* at 1163. Of note was its analysis of the first factor under the fair use doctrine: the Ninth Circuit stated that the central purpose of the inquiry was to determine whether and to what extent the new work is "transformative." Citing the Supreme Court's decision in *Campbell*, the Ninth Circuit defined a transformative work as follows: "the new work does not 'merely supersede the objects of the original creation' but rather 'adds something new, with a further purpose or different character, altering the first with new expression, meaning, or message." *Id.* at 1164. Finding that Google's use of thumbnails was "highly transformative," the Court stated that Google's search engine provided an entirely new use for the original images by transforming the images to an electronic reference tool. The Court also found that Google's incorporation of Perfect 10's image into the search engine did not diminish the transformative nature of Google's search engine, because Google was using Perfect 10's images in a new context to serve a different purpose.

C. Digital Books - *Authors Guild v. Google* (2015)

Background. Eight years after *Perfect 10*, Google once again drew a complaint for copyright infringement in 2015, this time from plaintiff Authors Guild, who were authors of copyrighted books. Plaintiffs brought a class action suit against Google alleging that Google, through its Library Project, acted without permission of rights holders in making digital copies of millions of books and making them publicly available through its search engine. *Authors Guild v. Google*, 804 F.3d 202 (2d Cir. 2015).

Google's Library Project, in which, beginning in 2004, Google had scanned more than 20 million books, including copyrighted books. The digital corpus Google accumulated through the scans fueled Google Books, a public search engine that allowed users to enter search words or terms and receive in response a list of all books in Google's database in which those terms appear. Google Books also allowed users to view the texts in limited fashion. The search function displayed three "snippets" containing the words or term selected by the user. Snippets were horizontal segments of books, and Google had rules surrounding snippet displays.

Holding. Demonstrating a trend in the courts' use of the fair use doctrine for emerging technologies, the Second Circuit similarly focused the first factor analysis on "transformative use" with the analysis of the remaining factors focused on the particularities of the snippet view. The Court emphasized that the purpose of Google's copying of the books was to make available significant information about those books, permitting a searcher to identify books that contain a word or term of interest, which was the sort of transformative purpose that strongly favors satisfaction of the first factor. Google's snippet view was also seen by the Second Circuit as transformative. Snippet view, according to the Court, provided just enough context to help users evaluate whether a book actually falls within the scope of his or her interest.

D. Source Code – *Oracle v. Google* (2021)

Background. Google was sued as recently as 2021 for copyright infringement, this time over its source code. Oracle sued Google, alleging that the use of the Java API violated Oracle's copyright by copying the declaring code and organizational structure of the API. *Oracle*, 141 S. Ct. 1183 (2021).

In 2005, Google acquired Android to develop a software platform for mobile devices, such as smartphones. The Android platform was built on millions of lines of new code written by Google engineers. However, because Google also wanted the large population of software engineers already familiar with the popular Java platform to be able to use the Android platform, Google also used around 11,500 lines of code from the Java's API.

The Java API is essentially a collection of computing tasks that programmers can use for their programs. Each task is called a "method" and belongs to a larger group of related tasks called a "class." The classes are also grouped into bigger categories called "packages." For each task or "method," there is a corresponding source code, called the "implementing code," that tells the computer how to execute the particular task a programmer asks it to perform. Programmers can tell a computer which implementing code it should choose by entering into a program a command called a "method call" that corresponds to the specific task. The "method call" locates and invokes particular implementing code through another type of code called the "declaring code."

Google did not copy Java's implementing code. It was written by Google engineers. Google also wrote the vast majority of Android's declaring code. However, for a limited number of tasks, Google used Java's declaring code, meaning that Google used the names given to particular tasks and the grouping of those tasks by Java. Google did this so that programmers migrating from Java could use declaring code they were already familiar with for certain tasks.

Holding. The Supreme Court relied solely on fair use to rule in favor of Google and is informative because it has the most thorough analysis of the four factors to date. It began by stating that "fair use can play an important role in determining the lawful scope of a computer program copyright, such as the copyright at issue here. It can help to distinguish among technologies." *Id.* at 1198.

The Court first turned its attention to the second factor in finding that declaring code—the code at issue in the action—was meaningfully different from copyrightable computer code because the declaring code was inextricably bound with the non-copyrightable idea of organizing tasks into categories. Furthermore, the Court noted the creative expression in an API was found in implementing code, and particularly the use of implementing code with the declaring code in the very different context of smartphones. Finally, the Court viewed declaring code as user-centered and differentiated it with the "innovative" implementing code. Declaring code's main value was not in its innovative nature but in the value that those who do not hold copyrights (*i.e.*, computer programmers) invest of their own time and effort to learn the API's system and the corresponding value in the declaring code's efforts to encourage programmers to learn and use Java's API system so that they will use Oracle's *implementing programs* that Google *did not copy*. Therefore, the first factor pointed to fair use.

The Court then analyzed the first factor, focusing the analysis on the "transformative" nature of the allegedly infringing work. The Court concluded that Google's use was transformative. Google's Android product, in the Court's eyes, offered programmers a highly creative and innovative tool in a new and distinct smartphone environment. Similar to *Perfect 10* and *Authors Guild*, that Google's use was commercial in nature was not dispositive because of the transformative nature of Google's use.

On the third factor, the Court admitted that the quantitative amount that Google copied was "large." However, the Court viewed the 11,500 lines Google used in context of the several millions of lines Google *did not use*. Furthermore, Google used the 11,500 lines for the practical purpose of attracting programmers to build a different task-related system for a different computing environment. In the Court's view, Google's use was essentially tethered to a valid, and transformative purpose, meaning that the third factor also favored fair use.

For the fourth factor, the Court began by pointing to evidence that Android did not harm Java's actual or potential markets, as Oracle/Sun would not have been able to enter the smartphone market anyway. Second, the Court agreed with Google's expert that Android was not a market substitute for Java's software because the two products were on different devices. Java was on simple, mobile devices like the Amazon Kindle whereas Android was used in more advanced smartphone technology. Third, the Court noted that Oracle could benefit from Android because Java and Android operated in two distinct markets and programmers learning Java language to work on smartphones can bring their talents to Java's laptop market as well. Fourth, the Court noted that allowing enforcement of Oracle's copyright would risk harm to the public by stifling creativity. *Oracle*, 141 S. Ct.

Fair Use and Generative AI

Most striking about the fair use assessments in these cases is the *highly individualized* analysis of the four fair use factors. This, of course, is inevitable because courts must mold fair use to whatever technology is at issue, and vast differences exist between video recording technology and computer source code.

It has not been determined yet how courts adjudicating cases involving generative AI will apply the fair use factors. However, the four cases collectively hint at the following three points:

(1) Whether generative AI is "transformative" will play a large role;
(2) The nature of the copyrighted work and the raw amount of the work used in the allegedly infringing technology will likely not be dispositive; and
(3) The analysis on the effect of the use upon the market for the protected work will be fact-specific.

September 25, 2023 marks the first decision in which a district court judge considered whether the use of copyrighted materials in machine learning was fair use, in *Thomson Reuters Enterprise Centre GmbH v. Ross Intelligence Inc.* 2023 WL 6210901 (D. Del. Sept. 25, 2023). Thomson Reuters sued Ross Intelligence Inc. for using content on Thomson Reuter's legal research platform, Westlaw, to create a "natural language search engine" using artificial intelligence. The plaintiff had alleged that the defendant had infringed Westlaw's copyrighted headnotes and corresponding "key numbers" that connect legal issues in a document to corresponding laws or cases. In response, defendant invoked the fair use defense, arguing that its artificial intelligence "studied the headnotes and opinion quotes only to analyze language patterns, not to replicate Westlaw's expression." *Id.* at *8.

Despite considering all four fair use factors, Judge Stephanos Bibas declined to resolve the defense at the summary judgment stage. However, Judge Bibas' opinion affirms the three points above. Specifically, he wrote that the analysis will depend on "transformativeness," specifically mentioning the role "transformativeness" played in *Oracle*. Judge Bibas also followed the approach taken by the cases above and stated—quoting *Authors Guild*—that the "second factor has rarely played a significant role in the determination of a fair use dispute" and that the amount of copying will depend on whether the use was "tethered to a valid purpose." *Id.* at *9-10.

Finally, on the fourth factor, Judge Bibas admitted that the analysis will involve "factual market-impact questions" and listed generative AI-specific questions that must be answered: "How transformative is it? Can the public use it for free? Does it discourage other creators by swallowing up their markets?" *Id.* at *11.

Conclusion

Although *Thomson Reuters* did not establish definitive precedent on fair use, Judge Bibas' opinion will be the first of many opinions that address fair use's applicability to artificial intelligence and machine learning as more plaintiffs assert copyright claims against companies utilizing such technology. And although Judge Bibas largely followed the trends and precedent established by the cases explored in this article, it remains an open question whether other courts will do the same.

AI in the Asset Management Space

Introduction

On July 26, 2023, the Securities and Exchange Commission ("SEC") proposed new rules under the Securities Exchange Act of 1934 and the Investment Advisers Act of 1940 "to eliminate, or neutralize the effect of, certain conflicts of interest associated with broker-dealers' or investment advisers' interactions with investors through [the] use of technologies that optimize for, predict, guide, forecast, or direct investment-related behaviors or outcomes" (the "Proposed Rules"). The Proposed Rules would have far-reaching negative consequences not just for the asset management industry, but also the investors they serve. As explained below, the SEC's release fails to justify the need for such a sweeping and harmful set of rules; not only are the potential harms identified by the SEC framed only through the agency's imagined possibilities—as opposed to being grounded in reality—there is no reasonable justification for replacing the current regulatory regime for managing conflicts. The industry as a whole seems to agree, submitting over one hundred comments detailing the potential harms of the proposal.

The Proposed Rules

At its core, the Proposed Rules place onerous burdens on brokers and advisers who use technology to serve investors, completely barring such technology if it may result in firms placing their own interests above those of investors. In particular, the SEC appears to be concerned with 1) conflicts of interests derived from the use of such technology; 2) corruptible or mislabeled data garnered from unknown sources; and 3) the so-called "black box" of information that leads to unrecognized or unsubstantiated results.

The Proposed Rules provide that investment firms would be required to evaluate their use of technology to identify potential conflicts of interest, adopt and implement certain policies and procedures reasonably designed to prevent any such conflicts, and comply with new record-keeping requirements related to the use of technology. The first two of these requirements are, for the most part, already covered by existing law. For at least investment advisers, the record-keeping requirement would supplement the long-standing approach of allowing advisers to disclose the conflict with an outright prohibition. The SEC does not provide a convincing reason for such a departure and as noted above, the industry has pushed back staunchly against the proposal—noting numerous significant challenges with the rules as proposed.

Problems with the Proposed Rules

As discussed in comment letters to the SEC, there are two significant problems with the Proposed Rules. First, the definition of "covered technology" is so overly broad that it essentially includes most forms of "technology," no matter how rudimentary. Second, the requirement that a conflict associated with such "technology" be eliminated—rather than simply disclosed—inflicts significant negative repercussions on both asset managers and investors. Overall, it remains unclear how the SEC can justify the abandonment of the approach adopted in Reg BI and its long-standing, principles-based approach to managing an investment adviser's conflicts.

First, the Proposed Rules define "covered technology" as "[a]n analytical, technological, or computational function, algorithm, model, correlation matrix, or similar method or process that optimizes for, predicts, guides, forecasts, or directs investment-related behaviors or outcomes." According to the SEC, examples of such technology include "predictive data analytics like" tools that analyze investor behavior, algorithm-based technologies that provide investment recommendations, auto-encoder models to predict returns, and machine learning in the use of advertising. As many commenters have noted, the breadth and ambiguity of this definition begs the question of which forms of technology fall *outside* its umbrella, as the rule could seemingly include even the simplest of tools that have been used by brokers and advisers for decades—such as an Excel spreadsheet. This led one commenter to describe the Proposed Rule as the SEC's "continued war on technology."

Next, and perhaps most problematic, under the Proposed Rule if a firm identifies a conflict of interest, it is required to not only "[e]liminate, or neutralize the effect of" that conflict, but to do so "promptly"—a demand which one commenter described as "pretty much unprecedented." In defense of the Proposed Rules, the SEC has taken the position that conflicts created by predictive analytics in particular are "relatively opaque," complicated, and quick to evolve, such that disclosure is not a useful tool in addressing them. The SEC fails, however, to provide any reason, explanation, or analysis as to how these types of conflicts are any more complicated than others. Moreover, Reg BI and an adviser's fiduciary duty already address managing these types of conflicts. For example, in its 2019 interpretive release, the SEC clarified that the fiduciary duties imposed upon advisers generally under the Adviser Act require the elimination of *any* conflict which cannot be resolved via "full and fair disclosure and informed consent."

In sum, the industry seems to agree—almost uniformly—that the Proposed Rules' "lack of discernible boundaries" describing which technologies fall within the regulation functions as a "de facto ban on the use of the technology." More importantly, however, such a measure is unnecessary and attempts to solve a problem which does not exist; the complexity of a conflict of interest has traditionally been left to the discretion of the adviser, and the SEC has provided no discernable explanation for why technology should alter the status quo.

Fiduciary Duties

In separate statements, the American Securities Association ("ASA") and the Investment Adviser Association ("IAA") illustrated what has been the overwhelming sentiment among commentators as it applies to the SEC's proposed rule—that the SEC should withdraw its proposal and instead rely on the *already existing fiduciary duties* which govern the respective duties of care and loyalty among investment clients.

Various members Congress have opined similarly, with representatives Ann Wagner (R-MO) and French Hill (R, AR) offering via joint statement: "If the SEC's goal is to supplant Reg BI and the existing fiduciary standard with the proposal's heightened 'best interest' standard, it should be transparent about its actions . . . [the SEC] should not rely on the recent attention around predictive analytics or artificial intelligence as a pretext." That is, the existing fiduciary duties owed by firms (to investors) *already cover* the use of technology without the added complication of the Proposed Rules, and without threatening the elimination of basic technologies. As IAA explained, "even where the covered technology would provide financial education, coaching, guidance, or advice that are in the best interest of clients, notwithstanding the presence of a conflict, the adviser would be per se prohibited from proceeding to use the technology without first eliminating or neutralizing the conflict altogether."

Conclusion

Savvy businesses across the nation are embracing the use of technology, including predictive analytics, to optimize workflow and generate cost-savings for themselves and the people they serve. To be sure, *unlike* other businesses, brokers and advisers cannot put their interests above those of investors when making securities recommendations, but the obligations already imposed on brokers and advisers seem to resolve the same problem the SEC seeks to eradicate, causing understandable head-scratching among those in the industry. As noted above, the Proposed Rules are not necessary and move the regulatory landscape further than needed to accomplish the stated goals, creating sub-categories of conflicts which are treated differently (for unclear reasons) than traditional, run-of-the-mill conflicts of interest. Although the use of some technology—including prescriptive analytics—in finance can be complex, if the Proposed Rules are adopted, many brokers and advisers worry about their ability to utilize technology effectively to serve investors, and justifiably so. Q

PRACTICE AREA NOTES

Patent Litigation Update

The Supreme Court in *Amgen Inc. v. Sanofi*, 143 S. Ct. 1243 (2023) recently re-examined the requirement under 35 U.S.C. §112(a) that the specification of a patent must describe the invention "in such full, clear, concise, and exact terms as to enable any person skilled in the art . . . to make and use the [invention]." The case concerned patents covering antibodies and the specific question the Court considered was whether, in order to satisfy the enablement requirement, a patent must enable those skilled in the art to practice the full scope of the claimed invention without undue experimentation. The Supreme Court affirmed the Federal Circuit's decision that the patents at issue were invalid for lack of enablement because a patent "specification must enable the full scope of the invention as defined by its claims" and the disclosures of the Amgen patents in this case were insufficient to enable a person skilled in the art to make and use the entire class of claimed antibodies. *Amgen*, 143 S. Ct. at 1254.

Facts of the *Amgen* Case

Amgen was a patent dispute between two pharmaceutical companies, Amgen and Sanofi. The central patents at issue involved antibodies, and in the claims of those patents, Amgen claimed an "*entire genus*" of antibodies by describing them based on their function rather than the specific antibody structures. The issue before the Supreme Court was whether these claims were enabled by a disclosure in the specification of examples of how to make antibodies falling within the scope of the claims.

The patents at issue in the case claimed antibodies used to treat patients with high LDL cholesterol, a substance that could lead to cardiovascular diseases, heart attacks, and strokes. The antibodies performed two functions that help with removal of LDL cholesterol from the bloodstream. Amgen's patents claimed every antibody that performs these two functions, rather than describing particular antibodies by their amino acid sequence.

Amgen's patents identified 26 specific antibodies in the specification that are capable of accomplishing these two functions. The specification also disclosed two methods to allow one of ordinary skill to find other undisclosed but claimed antibodies. The first approach, referred to as the "roadmap," involves testing a variety of antibodies to determine if they can bind to the "sweet spot" of a specific protein to inhibit that protein's deleterious effect on LDL removal. The second approach, termed "conservative substitution," involves substituting specific amino acids from a known functional antibody and then testing if the resultant antibody still retains the original function. Both approaches involved testing whether a certain antibody could implement the two claimed functions. The Federal Circuit concluded that the methods disclosed would require individually screening millions of candidates with respect to multiple specific functions. *Amgen Inc. v. Sanofi, Aventisub LLC*, 987 F.3d 1080, 1088 (Fed. Cir. 2021).

The Supreme Court's Reasoning

The Supreme Court determined that the level of disclosure provided by Amgen's patents was insufficient to meet the enablement requirement considering the scope of the patents' claims and affirmed the decision of the Federal Circuit. Recognizing that Congress has left the enablement obligation largely intact since passing the Patent Act of 1790, the Supreme Court reaffirmed that "just as in 1790, the [enablement requirement] secures for the public its benefit of the patent bargain[.]" *Amgen*, 143 S. Ct. at 1251.

The Court examined the reasoning in multiple cases from the 19th and early 20th century regarding enablement. For example, in *O'Reilly v. Morse*, 15 How. 62 (1854), a claim covering all means of telegraphic communication was invalidated as the patent did not provide specifics on how to implement all such means; in *The Incandescent Lamp Patent*, 159 U.S. 465 (1895), the inventors' broad claims over all "fibrous and textile material" for an electric lamp were rejected as they failed to specify the common qualities making these materials suitable for the lamp; in *Holland Furniture Co. v. Perkins Glue Co.*, 277 U.S. 245 (1928), a patent claim covering all "starch glue" with substantially the same properties as animal glue was contested because the patent described the key ingredient functionally and not by its physical or chemical properties, leading to the need for extensive experimentation.

According to the Supreme Court, these century-old cases mandate that "[i]f a patent claims an *entire class* of processes, machines, manufactures, or compositions of matter, the patent's specification must enable a person skilled in the art to make and use the *entire class*." *Amgen*, 143 S. Ct. at 1254. Although it clarified that this does not mean that the specification has to describe "how to make and use every single embodiment," and the "specification may call for a reasonable amount of experimentation," the Court found that Amgen's patents failed to meet this standard. *Id*. at 1254, 1255. Specifically, the Supreme Court noted that Amgen's claims may potentially cover millions of antibodies and the two methods disclosed in the specification "amount to little more than two research assignments," akin to trial-and-error methods. *Id*. at 1256. As a result, in this case the Court concluded that the description in the patents of 26 exemplary antibodies and two methods for how to search for additional antibodies was not enough to enable the full scope of the claims.

Impact of *Amgen* on Pharmaceutical Patent Litigation

Pharmaceutical patents, especially those claiming an entire genus, may be impacted by *Amgen*. Assessment of the claims in such patents will largely depend on their comparison to the facts of *Amgen* with respect to two aspects: 1) the number of both disclosed and potential (undisclosed) embodiments, and 2) the methodology described in the specification. According to the Supreme Court, *Amgen* was extreme by both measures. The patent disclosed only 26 embodiments out of millions claimed, and the disclosed methodology failed to spare those skilled in the art from needing to conduct "painstaking experimentation" to figure out the undisclosed embodiments. *Id*.

The Supreme Court's reference to "a quality common" in its discussion of *The Incandescent Lamp Patent* also provides insight as to the application of the enablement standard. *Id*. The Court suggested that the enablement requirement could be met, even if the disclosed method merely serves as a "road map" or a "conservative substitution," provided the "inventor identifies a quality common to every functional embodiment[.]" *Id*. In light of *Amgen*, patentees should look for a common quality that allows those skilled in the art to identify any undisclosed embodiments with a "reasonable amount of experimentation." *Id*. at 1255.

Impact of *Amgen* on General Patent Litigation

Amgen also amplifies the ongoing caution in patent law against overbroad functional claiming. Traditionally, patent law has discouraged claimants from functional claiming mainly through two legislative provisions: 35 U.S.C. §101, which concerns subject matter eligibility, and 35 U.S.C. §112(f), addressing 'means plus function' claims. Under §101, a claim may be found invalid if it attempts to claim and therefore preempt an entire abstract idea – this encourages patentees to avoid overbroad functional claims that do not specify concrete implementations. Under 35 U.S.C. §112(f), a claim "characterized by its function" only "cover[s] the corresponding structure, material, or acts described in the specification and equivalents thereof."

Amgen suggests that the enablement requirement can also work to curb overly broad functional claims. For instance, the ruling in *Amgen* reaffirms the decision of *Holland Furniture*, where the specification inadequately described the key component—the "starch ingredient"—by its "use or function" rather than its intrinsic properties, necessitating extensive experimentation to use or avoid the claimed discovery. The reasoning of *Amgen* mirrors this logic. The Court stated that the broader the claims a party asserts, the more it must demonstrate to support those claims. *Id*. At 1257. The analysis under 35 U.S.C. §112(a), of course, must also involve consideration of the factors described in *In re Wands*, 858 F.2d 731 (Fed. Cir. 1988), and will depend heavily on what particularly is disclosed in the specification. If, however, a patent specification does not recite specific structures, mechanisms, or attributes that would allow a skilled person to avoid extensive experimentation, a claim that attempts to cover an entire function may face additional risk of invalidity for lack of enablement.

Asia-Pacific Litigation Update

Foreign Residents Can Participate as Group Members in Australian Class Actions

In *BHP Group Ltd v Impiombato & Anor* [2022] HCA 33, the Australian High Court unanimously held that foreign residents can participate as group members in Australian Class Actions. Class actions (referred to as "representative proceedings") can be commenced in Australia when the following criteria (set out in Part IVA of the *Federal Court Act 1967* (Cth) (the "Act")) are met:

(1) at least seven people must have claims against the same person;
(2) the claims must arise out of the same, similar or related circumstances; and
(3) the claims must give rise to substantial common issues of law or fact.

If these criteria are met, a proceeding may be commenced by one or more of those persons as representing some or all of those with a similar claim (being, "group members").

As in the US, a representative party does not need to have the consent of a group member in order to commence a class action on that group member's behalf. The relevant provisions of the Act simply require that notice be given to class action group members, providing those group members with the opportunity to 'opt out' of the proceedings. However, contrary to the system in the US, there is no requirement for "class certification" in Australia.

The Australian High Court has recently ruled, confirming the decision of the Full Federal Court of Australia, that Australian non-residents can participate as group members. The class action in question was brought following the Mariana dam disaster in Brazil in November 2015 (on similar grounds as the shareholder class action commenced against BHP in the US). BHP owned a 50% interest in the Brazilian company which owned and operated the Fundão dam. Following the failure of the dam, BHP's share price declined significantly on the Australian Stock Exchange (ASX) (and on other international stock exchanges). The group members of the class action against BHP in Australia were defined to include shareholders of BHP who had suffered a loss on the ASX as a result of the drop in BHP's share price. The applicants alleged that BHP had been in possession of information since 2012 which it failed to disclose to the ASX (in accordance with requirements of Australian Corporations legislation) and that BHP engaged in misleading or deceptive conduct.

BHP brought an application seeking to have foreign residents excluded from the class of group members, arguing that the Australian class action regime must be interpreted as excluding group members who do not reside in Australia. In making this argument, BHP sought to rely on a presumption which exists under common law and statute - that Australian laws do not have extraterritorial effect.

Interestingly, BHP did not dispute that a class action could be commenced by a representative applicant who resided outside of Australia, just that the reference to "persons" in the definition of "group member" should be read to exclude non-residents. This was because, according to BHP, a judgment of the Federal Court (in relation to a class action) otherwise had the potential to affect the rights of "unknowing and unconsenting group members".

All seven justices of the High Court dismissed BHP's appeal. Kiefel CJ and Gaegler J delivered a joint judgment, finding that the issue was entirely one of statutory construction. The reasons for their judgment included that:

(1) The relevant provisions of the Act which empower the Federal Court to make a decision binding non-resident group members (including those who have not consented to become group members) do not infringe any principle of international law or international comity. Finding at [14]: "*whether and for what purposes a judgment given by the Federal Court in a representative proceeding might be*

taken to determine the existence, or preclude the exercise of legal rights under the domestic law of another country is a matter to be determined under the domestic law of that country." In Kiefel CJ and Gaegler J's view the "bottom line" was that Pt IVA of the Act is concerned with the exercise of jurisdiction by the Federal Court.
(2) there was an "immediate logical hurdle" with BHP's position that it was permissible for a representative applicant to be a non-resident, however not a group member. At [17]: "*If a person in the pool can become a representative irrespective of their place of residence… why can a person in the pool become a group member only if resident in Australia*?"

The plurality judgment delivered by Gordon, Edelman and Steward JJ included similar findings, with the Justices adding that:

(1) The text, context and purpose of Pt IVA of the Act demonstrate that it was intended to encompass all persons irrespective of whether they are Australian residents, so long as the claims fall within the jurisdiction of the Federal Court.
(2) the intention of the legislature in enacting Pt IVA of the Act (including the relevant opt out provisions) was to ensure that "*persons are not made subject to the Court's jurisdiction (or bound by a judgment given in a representative proceeding) if they are unwilling to participate*". This mechanism is what ensures the "integrity" of Part IV of the Act.
(3) At [66]: "*The determination of the group members' claims as a matter of Australian law does not have any effect or execution outside Australia*."
(4) The Plurality also noted the practical limitations of excluding non-residence, highlighting (at [75]): "*how is residence to be determined?... Residence may be a complex inquiry with a range of different standards…*"

This decision raises a number of practical consequences for Australian corporations. The first and the most obvious one being the need to include in any assessment of class action risk that the constitution of the class can extend to non-residents. The second is the added complexity for companies listed on the ASX and other international stock exchanges which may face class actions in multiple jurisdictions, and may need to develop global class action risk strategies. And third, ASX listed multi-national companies should review their insurance arrangements to ensure that claims brought by group members who reside outside of Australia are not excluded.

Middle East Update

Litigation Funding in the UAE

Litigation funding (also known as litigation finance) enables parties to obtain funding to conduct or defend litigation from third parties who are otherwise uninvolved in the litigation. The litigation funder would typically agree to do so in return for a fee payable from the proceeds recovered by the funded litigant or for a multiple of the amount of funding provided – which may only be payable in circumstances where the litigant is considered to be successful in the litigation (either by way of a decision or settlement). In some jurisdictions, the litigation funder is also entitled to charge an uplift or is entitled to a percentage of the sums recovered by the litigant.

Litigation funding has become relatively common in many Western jurisdictions, such as the UK, USA and Australia – particularly in relation to large, complex litigation (including class/representative actions), and its use is on the rise. For example, it has been reported that in June 2022, UK litigation funders' assets hit a record £2.2 billion (an 11% increase from the previous year), reflecting a 10-fold increase in the decade from £198 billion in 2011/2012

Whilst the use of litigation funding has historically not been as common in the Middle East, it has, in recent times, become more popular in the UAE.

By way of background and summary, the UAE essentially covers three separate legal systems - the civil law "onshore" system (which applies Sharia law) and two common law "off-shore" court systems, which are the Dubai International Financial Centre (the "DIFC") based in Dubai, and the Abu Dhabi Global Market (the "ADGM").

Litigation Funding in the Different UAE Legal Systems

The UAE "onshore" court system has not historically proven to be an active market for third party funding. However, it remains open to litigation funders to fund parties to "onshore" legal cases if they wish to do so. There are no specific legislation, rules or regulatory bodies that govern these agreements. However, any parties that wish to enter into such funding arrangements need to comply with any applicable Sharia law principles, including (for example) the concept of good faith. It is also important that any funding provided in such cases not be considered to be a speculative or highly uncertain transaction, as this is likely to not comply with the Sharia law principle of *gharar*.

On the other hand, litigation funders are likely to be more interested in funding cases that are being heard in the DIFC and/or ADGM. This is, in part, because the DIFC/ADGM adopt common law principles. By way of example, the ADGM adopts English common law on an evergreen basis. Accordingly, these Courts are likely to be more familiar to US and UK based funders in the context of any analysis of the merits of a case.

Parties who wish to enter into funding arrangements in either the DIFC or the ADGM will need to comply with certain requirements and be subject to certain conditions, including the following:

a. The DIFC issued Practice Direction No. 2 of 2017 on Third Party Funding in the DIFC Courts ("PD 2017"). PD 2017 sets out various requirements that must be complied with by "Funded Parties" in respect of their relationships, interactions and contracts with "Funders" concerning proceedings in the DIFC Courts. In particular:

i. A Funded Party is required to put every other party to the relevant dispute on notice that it has entered into a litigation funding agreement and must disclose the identity of the funder.

ii. Practitioners are under a general duty to avoid conflicts of interest.

iii. The DIFC Courts may take into account that a party is funded when making determinations on application for security for costs (but this will not itself be determinative).

iv. The DIFC Courts also have inherent jurisdiction to make costs orders against third parties, including Funders, where the Court deems it appropriate given the circumstances of the case.

b. The ADGM Regulations and the ADGM Funding Rules (issued in 2019) set out requirements that a funding agreement must contain in order to be recognized as valid by the ADGM Courts. In particular:

i. A Funded Party is required to disclose the fact that it has entered into a litigation funding agreement.

ii. The agreement must be in writing and set out minimum information, including the scope, amount and timing of the funding, the funder's recovery, the funder's involvement in potential settlements and confidentiality obligations on litigation funders.

iii. The funder must take reasonable steps to ensure that the funded party has received independent legal advice on the funding agreement.

iv. The funding agreement must not contain terms which could induce the funded party's lawyer to breach their professional duties or allow the funder to influence the funded party's lawyer in such a way that the funder takes control of the dispute.

Increased Use of Litigation Funding in the UAE

There is currently no publicly available data or statistics that reveal the extent to which litigation funding is being utilized in the UAE. However, various commentators have stated that they have seen an increase in the use of litigation funding following the relatively recent updates to the ADGM and DIFC rules. Most commentators also agree that the use of litigation funding in the UAE is only likely to further increase.

Such views have coincided with an increase in the number of litigation funders who are offering third party litigation funding in the UAE. For example, Burford Capital (a company listed on the London stock exchange) opened an office in Dubai in early 2023 and is currently offering litigation funding in that jurisdiction. This is in addition to a number of other entities who are offering these services in the UAE, such as Omni Bridgeway and Fulcrum Capital.

Considerations for Parties, Funders, and Practitioners Entering into Funding Arrangements

It is, of course, important for parties and funders to seek independent legal advice before entering into funding arrangements in the UAE (or any other jurisdiction). Furthermore, funders who wish to enter into funding arrangements in respect of local court matters should consider the risks, including the unlikelihood that the funded party will recover legal costs even if it is successful.

One of the key issues that must be considered by parties and practitioners is ensuring that the funder is subject to strict confidentiality obligations. Documents or information shared with funders is unlikely to attract legal privilege in the UAE, and accordingly it is important that parties not share privileged information with funders if they wish to maintain privilege over that information. It is recommended that the funding agreements in place with funders make clear that the agreement (or any documents shared with the funder prior to or after execution of the agreement) do not amount to a waiver of legal privilege. Parties should also carefully consider whether they must provide copies of legally privileged documents to funders and only provide such documents if absolutely necessary and if their provision is subject to strict confidentiality obligations.

As noted above, it is also important (and a requirement of both the DIFC and ADGM) that practitioners avoid conflicts of interest and ensure that the funder does not, in effect, take control of the litigation. Accordingly, practitioners should always ensure they are taking instructions on the conduct of the litigation directly from their clients and not from funders. Any agreement in place between a party and a funder should make clear that it is the party who makes all the decisions on the conduct of the litigation.

Conclusion

Litigation funding is likely to prove attractive to parties who are involved in UAE litigation, particularly where a party would otherwise find it economically difficult to bring or defend proceedings which are otherwise considered to be strong. There are a number of funders who are currently active in the UAE and who may be interested in funding such cases, particularly if they are brought in the DIFC or ADGM. It is expected that the number of funders will increase.

Parties who wish to enter into such arrangements may be required to and should seek independent legal advice before entering into such arrangements. Quinn Emanuel is well placed to advice any clients on such arrangements, having recently opened offices in both Abu Dhabi and Dubai. Q

VICTORIES

Class Certification in a Multi-Billion Dollar Antitrust Class Action

Quinn Emanuel recently secured class certification in *City of Philadelphia v. Bank of America Corp.*, a case that addresses alleged collusion in the variable rate demand obligation ("VRDO") market. The class seeks over $4 billion in damages, before trebling, from the alleged collusion.

The class consists of VRDO issuers, which are typically municipalities that use VRDO instruments to raise funds for critical infrastructure projects like building hospitals or airports. The key distinction between VRDOs and traditional municipal bonds is that the interest rate is variable, with the bank intermediary—the "remarketing agent"—setting the rate periodically based on the level the bank believes would clear the market, the rate where VRDO supply from the VRDO issuers meets demand of the VRDO investors. The largest remarketing agents in the industry are the Defendants in the class action.

In a competitive market, the remarketing agents would compete against each other for issuers' business by setting the lowest possible rate—if any remarketing agent sticks out by setting artificially high rates, issuers would switch to a new remarketing agent with a competitive rate. The Plaintiffs allege that rather than engage in this competitive process, the remarketing agents agreed to collectively set inflated rates, harming the class while minimizing their own inventory costs.

Quinn Emanuel, along with co-counsel Susman Godfrey and Wollmuth Maher & Deutsch, filed for class certification on October 27, 2022, supported by economic evidence from Professor William Schwert and Dr. Rosa Abrantes-Metz. After the briefing was completed, the Court held oral argument on August 1, 2023. The presiding judge—the Honorable Judge Jesse Furman—issued a request that younger attorneys be given an opportunity to participate in the oral argument. Heeding the call, Quinn Emanuel tasked associates David LeRay and Nicolas Siebert of the New York office to take on the core economic components of the argument, with David LeRay handling Professor Schwert's analysis and Nicolas Siebert handling the analysis of Dr. Rosa Abrantes-Metz.

On September 21, 2023, the Court granted Plaintiffs' motion for class certification, adopting many of the positions we argued in our briefs and at the class certification hearing. The win represents a landmark victory for Quinn Emanuel's antitrust practice. The firm will continue to represent the class through summary judgment and trial, which should occur in 2025. Q

NEWLY ELECTED PARTNERS

The firm recently announced that it had elected 14 lawyers to its partnership, effective January 1, 2024, ten of them women. The new partners include lawyers across the globe, from Boston to Beijing.

The newly elected partners are as follows:

McKenzie Anderson – McKenzie, based in Oklahoma, is Of Counsel in the firm's New York office. She is a first-chair trial lawyer with a practice focused on high stakes, complex commercial litigation, government and internal investigations, and white-collar defense. McKenzie first joined the firm in 2008 after a clerkship with the Honorable Barbara M. G. Lynn in the Northern District of Texas, and, after seven years as a federal prosecutor, rejoined in 2022. As an Assistant United States Attorney, McKenzie investigated and prosecuted economic crimes, including government contracting fraud, bank fraud, wire fraud, securities fraud, insider trading, trade secret theft, and cyber intrusions, as well as human trafficking offenses.

Kathryn Bonacorsi – Kate is based in Quinn Emanuel's New York office. She represents plaintiffs and defendants across a wide range of complex commercial disputes before courts and arbitration panels, and she has significant experience litigating high-profile, high-dollar cases. Her experience includes shareholder disputes and derivative cases, entertainment and sports disputes, cross-border disputes, M&A disputes, employment disputes, and intellectual property disputes. In 2023 and 2024, she was awarded "*The Best Lawyers in America: Ones to Watch*, Commercial Litigation."

Jodie Cheng – Jodie is based in the firm's San Francisco office. She is an intellectual property litigator focusing on complex patent, technical trade secret, and copyright disputes. Jodie has served as trial counsel in over a dozen trials; conducted direct and cross examinations of witnesses, including technical and damages experts; and argued dispositive, evidentiary, and discovery motions. Her work has encompassed a variety of technologies, including encryption, cybersecurity, semiconductor fabrication, multilayer network and Ethernet systems, cellular baseband, GPUs, implantable medical devices, biologics, surgical systems, and mechanical ventilation systems. Her work has been repeatedly recognized by the *American Lawyer*'s "Litigator of the Week."

Peter Fountain – Peter is based in the firm's New York office and focuses on complex commercial disputes. He represents plaintiffs and defendants in high stakes matters in federal and state courts and before arbitration panels across the country. Peter joined the firm in 2020 following a clerkship with the Hon. Dora L. Irizarry, then-Chief United States District Court Judge for the Eastern District of New York. He graduated from Columbia Law School in 2015.

Samantha Gillespie – Samantha is based in the firm's New York and Washington D.C. offices. Her practice focuses on complex commercial litigation, white-collar criminal defense, and government investigations. She has particular expertise handling cross-border disputes involving Europe and Latin America due to her training in English and Spanish Law and fluency in Spanish, which also enables her to manage disputes wholly in Spanish. Samantha was named a "Latin America Rising Legal Star" by *Latinvex* in 2022 and as "The Best Lawyers in America: Ones to Watch, Commercial Litigation, Criminal Defense: White-Collar" for 2024. She received her JD from NYU Law, graduating *magna cum laude* and Order of the Coif.

Julianne "Jules" Jaquith – Jules is based in Quinn Emanuel's Houston and Washington, D.C. offices. She represents clients in courts and international arbitration proceedings, including sovereign governments and foreign corporations in investor state disputes, international commercial arbitration matters, and cross border litigation. Her experience spans many sectors, including energy, oil and gas, mining, telecommunications, and post-merger and acquisition disputes. She has experience with matters administered by the International Centre for Settlement of Investment Disputes (ICSID) and under other international arbitration rules, including UNCITRAL, ICDR, ICC, and JAMS. Her practice is primarily focused on disputes involving Latin America, and she is highly proficient in Spanish.

Lauren Martin – Lauren is based in Quinn Emanuel's Boston office. She focuses her practice on patent litigation and has significant experience in the areas of biotechnology, medical devices, diagnostic testing, and the chemical arts. Lauren has experience in all aspects of litigation, including strategy development, pleadings, motion practice, fact and expert discovery, witness preparation, trial, post-trial briefing and appeal. She has served as trial counsel in cases around the country and advises clients on global litigation strategy.

Michael Packard – Michael joined Quinn Emanuel's Boston office in 2018, following four years as an Assistant United States Attorney for the District of Maryland and, before that, several years at another international law firm. His current practice builds on his experience as a federal prosecutor and a civil litigator, encompassing white-collar defense, government investigations, and related commercial litigation. Michael helps corporate clients from a variety of industries navigate investigations and prosecutions initiated by the DOJ, SEC, CFTC and other government entities.

Sara Pollock – Sara is based in Quinn Emanuel's Silicon Valley office. She is a trial lawyer with a practice focused on high stakes complex commercial litigation, including intellectual property cases and other business litigation. Before joining the firm, Sara represented clients in a wide array of civil and criminal matters and clerked for the California Supreme Court. She has been recognized multiple times as a "Northern California Rising Star" by *Super Lawyers Magazine*, Next Generation Leader in Tech Law by *The Recorder*, and *The Best Lawyers in America: Ones to Watch* in Intellectual Property Litigation and Labor, and Employment Litigation.

Ryan Rakower – Ryan is based in the firm's New York office. His practice focuses on complex commercial litigation. Ryan has experience in litigation in a wide variety of subject matters and has represented private equity firms, venture capital firms, hedge funds, pension funds, international banks, insurance companies, biotechnology companies, electric utilities, live entertainment providers, luxury apparel retailers, and art fabricators and dealers in a whole host of commercial disputes. He has particular experience dealing with commercial contract and fraud disputes, securities litigation, mergers and acquisitions litigation, real estate litigation, business divorces, ownership and founder disputes, and disputes involving allegations of employment discrimination, harassment, wrongful termination, and retaliation.

Hope Skibitsky – Hope is based in the New York office, where her practice focuses on complex commercial litigation across a wide range of sectors. Hope's clients include individuals, shareholders, executives, and private and publicly traded corporations, including some of the most profitable and cutting-edge technology companies in the world. Among other areas of expertise, Hope specializes in data scraping litigation, including litigating disputes under the Consumer Fraud and Abuse Act ("CFAA"), breach of website terms of service, and related common law claims. She is a frequent speaker on the intersection of technology and the law. Hope joined the firm in 2017 following a clerkship with the Chief Judge of the United States District Court for the District of New Jersey, the Honorable Jose L. Linares.

Courtney Whang – Courtney is based in the firm's New York office. She joined the firm in 2015 and returned in 2017 after a clerkship with the Honorable George B. Daniels in the United States District Court for the Southern District of New York. Her practice focuses on complex commercial litigation, specializing in high-stakes trials. She frequently advises private equity and hedge fund clients in contentious contact disputes and fiduciary duty actions. She has extensive litigation experience in the financial services and energy sectors. She has secured numerous victories for her clients on both the plaintiff and defense side, including throughout the nation's federal courts and in Delaware Chancery Court. In 2024, she was awarded "*The Best Lawyers in America: Ones to Watch*, Commercial Litigation."

Yixuan Zhu – Yixuan is based in Quinn Emanuel's Beijing office. She is a founding member of the firm's China practice and worked in the firm's New York office for several years before returning to China. Yixuan has first-hand experience in a wide array of matters, including complex commercial litigation in U.S. federal and state courts, international commercial and investor-state arbitrations, DOJ/SEC enforcement actions and internal investigations as well as crisis management matters such as multi-pronged and multi-jurisdictional asset recovery and corporate control battles. Leveraging her broad expertise in disputes and deep insight into cultural nuances and challenges, she now focuses on advising Chinese clients in their most complex and high-stake cross-border disputes.

Ognjen ("Ogi") Zivojnovic – Ogi is based in the firm's San Francisco office. He joined the firm in 2015. His practice is dedicated to helping companies navigate the challenges they face at the intersection of law and technology. His primary focus is patent litigation — where he has successfully represented both plaintiffs and defendants — and he has helped clients navigate trade secret, copyright, trademark, contract, fraud, and antitrust issues involving technical subject matter. An engineer by training, with a B.S. and M.S. in Electrical Engineering, Ogi previously worked as an engineer at Qualcomm. His technical skills run the gamut from consumer software and products to cloud services and AI to wireless chips and semiconductor manufacture. Q

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business litigation report
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- We are a business litigation firm of more than 1,000 lawyers — the largest in the world devoted solely to business litigation and arbitration.
- As of January 2024, we have tried over 2,500 cases, winning 86% of them.
- When we represent defendants, our trial experience gets us better settlements or defense verdicts.
- When representing plaintiffs, our lawyers have garnered over $80 billion in judgments and settlements.
- We have won eight 9-figure jury verdicts and five 10-figure jury verdicts.
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