

Trademark, Trade Dress, Unfair Competition/False Advertising, and Publicity Rights Litigation

We have represented some of the world's best known trademark owners in trademark, trade dress, false advertising and unfair competition disputes. These include marks such as: Academy Awards, Google, Wal-Mart, Marriott, Converse, ESPN, and Casino de Monte Carlo. Our partners are regularly called upon to represent the most important litigations for clients including Alphabet companies (which include Google, YouTube, and Waymo), IBM, Qualcomm, Samsung, the NFL, Gucci, Alibaba.com, and Hyundai, among others. Our expertise covers the range from federal trademark infringement, dilution and false advertising claims to unfair competition and right of publicity claims under state laws. We regularly assert, and defend clients from, emergency injunction applications, with little to no advanced notice. We work with an array of the top consumer marketing experts and psychologists to interpret the message conveyed either by a brand or an advertisement. And we are experienced not just at trial, but in assisting clients with crafting brand strategies in the face of litigation.

BTI named Quinn Emanuel a "Litigation Powerhouse" in IP Litigation; *IP Stars* has recognized our US practice in their 2024 IP firm rankings for trademark disputes, highly recommending our regional expertise in California and New York; *Benchmark Litigation* recognized us as a Tier 1 firm for Intellectual Property in their U.S. Top Firm Rankings for 2023; and we are ranked Tier 1 in Litigation – Intellectual Property by *Best Lawyers*, *Best Law Firms*, NY (2023 Edition).

SELECT RECENT REPRESENTATIONS

- *King Spider, LLC v. Panda* (S.D.N.Y. 2024). We represent **AUS Merchant Services**, a U.S. affiliate of Alipay, in a trademark counterfeiting case in which AUS intervened. In the case, *King Spider v. Panda*, Plaintiff obtained an *ex parte* TRO freezing an account belonging to AUS, alleging that funds belonging to the defendant – and connected with the defendant's alleged counterfeiting – passed through that account. Upon intervening on AUS's behalf, we moved to have the account released, arguing that the account – which contained over \$40 million – should be released in its entirety because it no longer contained funds belonging to Panda, but rather, only contained funds belonging to unrelated entities who, as a result of the freeze, could not obtain their own assets. After intervening, we filed a motion seeking to have the account unfrozen so that AUS clients could access their funds. The Court granted our motion and released the account.
- *ConsumerDirect, Inc. v. Array US, Inc. et al.* (C.D. Cal. 2023). We represent **Array US, Inc.** in a trademark, cybersquatting, and unfair competition lawsuit brought by ConsumerDirect, Inc. Array is a "unicorn" start-up that provides software and technology infrastructure to credit and financial businesses, which enables the customers of those businesses to access their personal credit scores and monitor their credit activity. ConsumerDirect, a competitor in the consumer credit space, alleges that Array

operates websites that infringe its marks. After the court entered a preliminary injunction against Array, Array retained Quinn Emanuel. Since being engaged, the firm, filed counterclaims against ConsumerDirect for various business torts and unfair competition, which are now being litigated. Trial is set for the end of October 2023.

- Delta Air Lines, Inc. v. Marriott International, Inc. (N.D. Ga.). We represent **Marriott International, Inc.** and its parent corporation in a high-profile trademark infringement case brought by Delta Air Lines (DAL). DAL alleges that Marriott's use of the mark DELTA HOTELS for hotel services—which had been used for decades by Marriott's predecessor-in-interest—causes a likelihood of confusion and dilution with DAL's mark "DELTA" for airline services. Marriott filed counterclaims for breach of contract, alleging that DAL expressly consented to Marriott's use through a worldwide co-existence agreement that the parties entered years before this lawsuit was filed. After discovery closed in May 2023, the parties cross-moved for summary judgment. We are awaiting decisions on those motions.
- Jackpocket, Inc. v. Jackpot.com et al. (S.D.N.Y. 2023). We represent the **owners of the brand and URL jackpot.com**, in a trademark infringement action filed by its competitor, Jackpocket. In 2022, Jackpot.com—which had offered lottery-related services abroad for many years—announced that it anticipated launching a lottery-courier business in the U.S. In July 2022, Jackpocket filed a lawsuit alleging (among other things) claims of trademark infringement and dilution based on the alleged likelihood of confusion between "JACKPOCKET" and "JACKPOT.COM," and sought a preliminary injunction. Quinn Emanuel persuaded the Court to hold an evidentiary hearing with live witnesses, and after the hearing, persuaded the Court to hold its ruling in abeyance and instead hold an expedited bench trial on the merits. After a bench trial, on December 7, 2022, the Court issued a 140-page decision in our client's favor, denying the motion for a permanent injunction. Jackpocket filed an appeal with the Second Circuit, which remains pending.
- Lego A/S et al. v. Zuru Inc. (D. Conn. 2023). In April 2020, we were hired to replace **Zuru's** existing counsel in a trademark and copyright infringement lawsuit brought by The Lego Group ("TLG"). TLG sued Zuru following Zuru's introduction of a line of construction toy products under the brand names "Max" and "Mayka." We are opposing TLG's infringement claims, and also represent Zuru before the Trademark Trial and Appeal Board on a petition to cancel TLG's mark "lego." The parties briefed cross-motions for summary judgment, which await a decision.
- Docklight Brands Inc. v. Tilray Inc. et al. (W.D. Wash. 2023). We represented defendants **Tilray Brands, Inc.** and **High Park Holdings Ltd.** in a licensing dispute against Docklight Brands involving cannabis products sold under the Bob Marley brand. After Docklight accused Tilray of causing its subsidiary (High Park Holdings) to breach its contract with Docklight, we brought counterclaims alleging that Docklight breached the contract with respect to certain right-of-first-offer provisions. In April 2023, the Bob Marley estate terminated its license with Docklight, and Docklight then amended its complaint to seek damages for loss of the entire Marley license. We won a string of

motions, including a motion to extend the trial schedule, a substantial motion to compel, and a motion to disqualify Docklight's general counsel. The case then settled.

- Au New Haven v. YKK Corp. (S.D.N.Y. 2023). We defended **YKK** in a Lanham Act false advertising, breach of contract, and patent action brought by Au New Haven. YKK is the world's largest zipper manufacturer. In its suit, Au New Haven claimed, among other things, that YKK engaged in false advertising in connection with whether it had the "exclusive" right to use certain features associated with its zipper manufacture. YKK retained Quinn Emanuel after the close of discovery, and we moved for and won summary judgment on all of Plaintiffs' contract claims, and also won in large part judgment on Au New Haven's false advertising claim, reducing the number of allegedly "false statements" to just a handful. We then persuaded the court to stay the jury trial on the merits of the false advertising claim pending the U.S. Supreme Court's forthcoming decision in *Abitron Austria GmbH v. Hetronic Int'l*. The Supreme Court issued its decision in *Abitron* in June 2023, which narrowed the potential availability of damages for Lanham Act claims as to foreign sales. The case settled in July 2023.
- Harpo, Inc. v. Jackson et al. (S.D.N.Y. 2023). We represented Roulette Productions and the co-hosts of a podcast titled "Oprahdemics" in a highly-publicized trademark lawsuit brought by Oprah Winfrey's company, Harpo, Inc. Harpo alleged that the podcast's title ("Oprahdemics") and logo (featuring an "O") exploited the goodwill and reputation of Harpo's trademarks OPRAH and "O". After our entry representing the Defendants, Harpo agreed to settle this dispute before we moved to dismiss the Complaint.
- H&R Block, Inc. et al. v. Block, Inc. (W.D. Mo. 2023). We represented **Block, Inc.** (formerly, Square, Inc.) in a trademark infringement case brought by H&R Block, Inc. and HRB Innovations, Inc.. Block, Inc. serves as a holding company for a suite of services, including a peer-to-peer money transfer service, Cash App. H&R Block alleged that Block, Inc.'s use of its corporate name and Cash App's green rounded square logo with a white dollar sign infringed H&R Block's various BLOCK trademarks and green square logo. H&R Block obtained a preliminary injunction in the district court, but we obtained a stay of that injunction pending appeal, and then obtained a decision reversing and vacating the preliminary injunction from the Eighth Circuit. In a rare appellate reversal based on a finding of "clear error" by the district court, the Eighth Circuit held that there was no likelihood of confusion given the dissimilarity of the marks and the lack of any evidence of "a single customer who used Cash App thinking it was an H&R Block product." The parties reached a confidential settlement after the appeal was resolved.
- Girl Scouts of the United States of America v. Boy Scouts of America (S.D.N.Y. 2022). We successfully represented the **Boy Scouts of America (BSA)** in a trademark infringement case brought by the Girl Scouts of the United States of America (GSUSA) in the Southern District of New York. In 2018, the BSA began welcoming girls into its two core programs, Cub Scouts and Boy Scouts (re-named Scouts BSA). GSUSA alleged that the BSA's use of the terms "Scout" and "Scouting" in connection with these two programs was infringing because GSUSA claimed it held exclusive rights to the

term “Scout” when used in connection with youth service programs that included girls. After more than two years of litigation, the Court rejected GSUSA’s claims, agreed with the BSA that its uses were not infringing, granted the BSA’s motion for summary judgment, and dismissed GSUSA’s complaint in its entirety.

- Edible IP LLC v. Google LLC (Georgia 2022). We represented **Google, LLC** in a case where Edible IP, the company that owns the “Edible Arrangements” trademark, sued Google in the Superior Court of Gwinnett County, Georgia, alleging that Google’s keyword advertising business “converts” the Edible Arrangements mark. Previously, Edible IP and its affiliate had sued Google in February 2018 in the federal district court for the District of Connecticut, alleging substantially the same claims. That case was compelled to arbitration pursuant to an advertising contract between Google and Edible International, LLC. Unsatisfied with that result, Edible IP filed suit in Georgia superior court, claiming that it could not be forced to arbitrate because it was not a party to Edible International, LLC’s advertising contract. Edible IP also asked the Georgia court to issue a preliminary injunction, seeking to shut down part of Google’s keyword advertising program. Quinn Emanuel responded to Edible IP’s application for a preliminary injunction by filing an emergency motion to postpone that matter until after the arbitration and dismissal arguments were addressed, and further requested expedited discovery in connection with the preliminary injunction. The court granted the motion for a stay, and Google moved to compel arbitration, or in the alternative dismiss. The superior court issued a 27-page order granting Google’s motion, and the matter was dismissed with prejudice. Edible IP appealed to the Georgia Court of Appeal, which affirmed, and then to the Georgia Supreme Court. The Georgia Supreme Court unanimously upheld Google’s win, ruling that no claim for trademark theft or conversion could be maintained without a showing of confusion.
- Nike v. Wu (S.D.N.Y. 2021). We represented five of the largest Chinese state-owned banks in successfully opposing a motion to hold the non-party banks in contempt because they refused, on the basis of Chinese law’s prohibitions and New York’s separate entity rule, to freeze bank accounts in China pursuant to a U.S. court’s asset freeze orders.
- Callahan v. Ancestry.com Inc. (N.D. Cal. 2021). We defended **Ancestry.com** in various putative class actions asserting “right of publicity” claims based on Ancestry’s hosting of yearbook records in its online, searchable database. We successfully defeated the first-filed action in its entirety, obtaining dismissal with prejudice on the basis that (1) plaintiffs failed to establish standing; and (2) Ancestry was immune from liability under the Communications Decency Act. Plaintiffs subsequently voluntarily dismissed their appeal of that decision. We continue to defend Ancestry in several other right of publicity cases pending across the country.
- Martinez et al v. ZoomInfo Techs. (W.D. Wash. 2021). We represent **ZoomInfo Technologies Inc.** in a right of publicity putative class action filed against it in the Western District of Washington based on ZoomInfo’s public, searchable, online directory of professional business profiles.

- United States Soccer Federation Foundation, Inc. v. United States Soccer Federation, Inc. (D.D.C. 2020). We successfully represented the **U.S. Soccer Foundation (the “Foundation”)** in a trademark action against the U.S. Soccer Federation (the “USSF”), seeking a declaration that the Foundation is the owner of the trademark “U.S. Soccer Foundation” that it has used for over 25 years. The Foundation filed suit after the USSF demanded that the Foundation cease using the name “U.S. Soccer Foundation” and logos and threatened to hijack the Foundation’s trademarks for its own use—likely in an effort to capitalize on lucrative business opportunities when the United States hosts the World Cup in 2026. The suit settled on favorable terms.
- TechShop Inc. v. Dan Rasure et al (N.D. Cal. 2019). We represented **Defendants Dan Rasure, TheShop.Build, LLC, and TheShop.Build San Fran, LLC** in a pro bono matter. Plaintiff TechShop, Inc. sued our clients for trademark infringement in the Northern District of California, alleging that the former name of their business, TechShop 2.0, and the current name, TheShop.Build, infringed its TECHSHOP marks. Quinn Emanuel was retained after discovery closed to try the case. After a 7-day jury trial, the jury came back with a verdict that our clients infringed TechShop’s marks, but awarded TechShop no damages.
- Charlie Kessler v. Matt and Ross Duffer (Cal. 2019). We represented **Matt & Ross Duffer**, creators of Netflix’s hit TV show Stranger Things, after they were accused of basing the show on ideas allegedly described to them at a party by Charlie Kessler. The Duffer brothers hired us two weeks prior to trial to act as lead counsel. Plaintiff dismissed his case before the trial commenced.
- Forever 21, Inc. v. Gucci America, Inc. (C.D. Cal. 2018). We represented **Gucci** in a case against Forever 21, which brought claims for declaratory judgment of non-infringement and cancellation of trademark registrations against Gucci America, Inc. relating to Gucci’s famous green-red-green and blue-red-blue striping trademarks. The matter settled on terms satisfactory to our client.
- The Lincoln Electric Company et al. v. Harbor Freight Tools USA, Inc. (N.D. Ohio 2018). **Lincoln** is a prominent maker of welding power supplies. Lincoln filed an omnibus complaint against Harbor Freight in the Northern District of Ohio (Lincoln’s home district) asserting patent infringement, trade dress infringement, and other ancillary claims in connection with Harbor Freight’s line of competing welding power supplies. Shortly thereafter, Lincoln moved for a preliminary injunction to block all future sales of Harbor Freight’s products based on their alleged infringement of three Lincoln patents. Operating under a highly compressed schedule, we took discovery and put together a robust opposition to Lincoln’s motion. Based on the strength of our opposition, Lincoln voluntarily withdrew two of the three patents and provided Harbor Freight with Covenants Not to Sue. The Court denied the preliminary injunction based on the remaining patent.
- Moldex-Metric, Inc. v. McKeon Products, Inc. (9th Cir. 2018). We represented **Moldex-Metric, Inc.**, which for years has manufactured and sold ear plugs in a specific, bright lime-green color. When McKeon Products began selling its own

earplugs in a near-identical color, Moldex sued for trademark infringement. McKeon responded that the lime-green color is functional (allowing for easy visibility), and so is ineligible for trademark protection. After the district court granted summary judgment to McKeon on functionality, Moldex appealed and the Ninth Circuit reversed and remanded, holding that the availability of alternative color schemes meant that functionality must be determined by the factfinder. The parties then settled, with McKeon agreeing to a consent judgment and permanent injunction.

- Jeremy Southgate v. United States et al. (E.D. Va. 2018). We obtained a dismissal with prejudice of an unusual complaint against our client, **the Academy of Motion Picture Arts and Sciences**, in the Eastern District of Virginia. Pro se plaintiff Jeremy Southgate brought claims of racketeering, trademark and copyright infringement, and more. He claimed that certain stage arrangements, spoken words, and a musical performance in the Oscars infringed his company's logo as part of a conspiracy involving Barack Obama, Google, and other high-profile figures. On April 9, 2018, the Court granted our motion to dismiss with prejudice.
- Snap-on, Inc. v. Harbor Freight Tools USA, Inc. (E.D. Wisc. 2017). We represented **Harbor Freight Tools** in a suit by rival tool company, Snap-on. After Harbor Freight's motion to dismiss trade dress claims led to Snap-on dropping that claim, Harbor Freight defeated Snap-on's motion for preliminary injunction, in which Judge Lynn Adelman found that Snap-on's design patent infringement claim had no likelihood of success on the merits. After Harbor Freight filed its own counter-claims of false advertising and inequitable conduct, the case settled.
- American Airlines, Inc. v. Despegar.com USA, Inc., et al. (S.D. Fla. 2016). We represented **Despegar.com** in a false advertising lawsuit brought by American Airlines. Just before initiating suit, American withdrew its tickets from all of Despegar's websites throughout the world. In addition to mounting a vigorous defense against American's claims, we brought an antitrust counterclaim on behalf of Despegar's U.S.-based subsidiary relating to American's anticompetitive air fare distribution scheme. On the eve of depositions, we obtained a favorable settlement agreement which paved the way for Despegar to resume selling American tickets.
- Mattel, Inc. v. Excite Inc. (C.D. Cal. 2016). We represented **Mattel** in a suit for infringement and dilution of Mattel's famous BARBIE trade dress. The suit settled on favorable terms that included a permanent injunction.
- Apple v. Samsung (Fed. Cir. 2015). We represented **Samsung** in the high-profile litigation brought by Apple that, among other claims, alleged infringement and dilution of Apple's alleged trademark and trade dress rights in its iPhone and iPad products. After discovery, Apple abandoned all of its iPhone infringement claims, but continued to pursue its iPhone trade dress dilution claims and iPad trade dress infringement and dilution claims. At trial, we obtained a defense verdict in Samsung's favor on Apple's iPad trade dress claims. On appeal, in a landmark decision, the Federal Circuit invalidated Apple's iPhone trade dresses, both registered and unregistered, in their entirety on functionality grounds.

- WildFireWeb, Inc. v. Tinder Inc. and IAC/Interactive Corp. (C.D. Cal. 2015). We represented **Tinder, Inc. and IAC/InterActiveCorp** in a trademark infringement lawsuit brought by a website designer called WildFireWeb, which had a prior federal registration in a “Tinder” trademark for one of its product offerings. The plaintiff alleged substantial actual confusion resulting from Tinder’s use of its name for its hugely popular social media application, and sought an order requiring Tinder to change its name. Despite the similarity between the parties’ marks and the evidence of alleged actual confusion, we obtained a highly favorable settlement for Tinder that has allowed Tinder to continue to own and use its valuable mark.
- Exclaim Marketing, LLC v. DIRECTV, LLC (E.D.N.C. 2015). We represented **DIRECTV** in a case brought by Exclaim Marketing involving unfair and deceptive trade practices and cross-claims for trademark infringement. After a seven-day jury trial and post-trial briefing, we not only obtained a complete defensive victory for DIRECTV, but also won substantial damages and a sweeping nationwide permanent injunction against Exclaim.
- Academy of Motion Picture Arts and Sciences v. Lash Fary d/b/a Distinctive Assets (C.D. Cal. 2015). On behalf of the **Academy of Motion Picture Arts & Sciences**, we filed trademark infringement and dilution claims against a company that was using the Academy’s famous OSCARS trademark to promote and publicize “gift bags,” creating the false impression that the Academy sponsored or was in some way affiliated with the “gift bags.” We quickly obtained a consent judgment permanently enjoining the unlawful uses.
- Hanginout, Inc. v. Google Inc. (S.D. Cal. 2014). We represented **Google Inc.** in a case against Hanginout, Inc. Hanginout claimed that Google’s use of HANGOUTS infringed Hanginout’s alleged common law HANGINOUT trademark. Hanginout moved for a preliminary injunction, but was soundly defeated. The Court’s 34-page opinion found in Google’s favor on all of the preliminary injunction factors, including likelihood of confusion. The Court’s opinion also raised serious doubts that Hanginout even owned common law trademark rights in its alleged mark. The case ended when the plaintiff moved to dismiss its own claims with prejudice.
- Parts.com, LLC v. Google Inc. (S.D. Cal. 2014). We represented **Google Inc.** in a trademark case in which Parts.com alleged that Google impermissibly used its trademark in its AdWords program constituting federal and state trademark infringement, dilution, and unfair competition. In the first decision we are aware of to do so, the Court dismissed all claims against Google at the pleading stage under the doctrine of laches. The Court also found the state law claims barred by the Communications Decency Act’s immunity provision.
- Academy of Motion Picture Arts and Sciences v. De La Rosa (W.D. Tex. 2014). Our client, the **Academy of Motion Picture Arts & Sciences**, sued a retailer of counterfeit Oscar statuettes. We asserted claims for copyright infringement, trademark infringement, trademark dilution and false advertising. The Academy was granted judgment on all claims, including a permanent injunction and damages. This case was

important to set a deterrent for future infringers who continue to infringe the Academy's intellectual property.

- Chih Lin v. American Rena (Los Angeles Superior Court 2014). We defended **American Rena International Corporation** in a \$25 million breach of contract and fraud lawsuit brought by a former sales representative, defeated the suit on summary judgment, and won summary judgment of liability on American Rena's cross-complaint for trademark infringement. At the damages trial, we obtained an award of the former sales representative's profits, together with American Rena's attorneys' fees and costs.
- J. Christopher Burch, et al. v. Tory Burch, et al. (Del. Ch. 2013). In less than four months, we achieved a highly favorable settlement for **Chris Burch** and his new fashion brand, **C. Wonder**. After Mr. Burch was blocked from selling his interests in Tory Burch LLC—the successful label he co-founded—by Tory Burch and other directors of the Company, we brought claims for breach of fiduciary duties in Delaware Chancery Court before Chancellor Strine. We then pursued an aggressive litigation strategy by convincing Chancellor Strine to grant expedited discovery and proceedings, thereby forcing the company to face the prospect of a trial in six months, or else accept a settlement on unfavorable terms. The confidential settlement resulted in the dismissal of the company's trade dress allegations, and enabled Mr. Burch both to consummate a sale of his interests in Tory Burch LLC in a very successful M&A transaction, and to operate C. Wonder free from the cloud of Ms. Burch's interference.
- Apple v. Samsung (District Court Düsseldorf 2013). We obtained a full defense victory for **Samsung** against Apple in German proceedings regarding various smartphones, defeating alleged unfair competition claims.
- Jurin v. Google Inc. (E.D. Ca. 2012). We won a complete summary judgment for **Google Inc.**, by which all remaining claims that decorative home trim supplier Daniel Jurin had asserted based on Google's advertising programs and trademark policies were dismissed with prejudice. In a comprehensive opinion, the Court held that Google was not liable for trademark infringement (whether direct, contributory, or vicarious) or dilution. The summary judgment order was the ultimate victory in a string of successful motions for Google. At the pleading stage, Quinn Emanuel obtained dismissal of Jurin's state law negligent and intentional interference with contractual relations and prospective economic advantage claims, as well as his unjust enrichment and breach of contract claims. Google also was awarded its costs and fees under Rule 41(d) after Jurin re-filed his case in the Eastern District of California after having dismissed a similar complaint against Google in the Central District of California without prejudice.
- Google AdWords Litigation. We represented **Google** in a number of actions primarily alleging trademark infringement in connection with its offering advertisers the opportunity to bid on keywords that include third-parties' trademarks to trigger advertising. In many of those cases—Ascentive LLC v. Google Inc. (E.D. Pa.); Dazzlesmile v. Epic Advertising (D. Utah); Flowbee Int'l, Inc. v. Google Inc. (S.D. Tx., transferred, on our motion, to N.D. Cal.); Groupon, LLC v. Groupon Inc. (N.D. Cal.); and Soaring Helmet Corp. v. Nanal, Inc. (W.D. Wa.), All Star Remodeling, LLC v. YP

Advertising & Pub'g, et al. (Tenn.)—the plaintiffs voluntarily dismissed their claims; they simply walked away with no payment or settlement agreement from Google, usually after the first motion we filed in each case.

- Mattel, Inc. v. MGA Entertainment, Inc. (C.D. Cal. 2010). On the trade dress claims in this wide-ranging action, we succeeded in obtaining summary judgment on behalf of **Mattel** in defense of MGA's trade dress infringement and dilution claims concerning Mattel's packaging for various Barbie and "Wee 3 Friends" dolls. The trial court agreed that MGA's asserted trade dresses, including a registered trade dress, were not protectable on two independent grounds: they had not acquired secondary meaning and were functional. The trial court also agreed that even if the trade dresses were valid, there was no likelihood of confusion, and therefore no infringement. In addition, the trial court found the asserted packaging ineligible for protection under the dilution statute and found that Mattel's accused packaging could not dilute MGA's as a matter of law because it was too dissimilar.
- Rosetta Stone Ltd. v. Google Inc. (E.D. Va. 2010, 4th Cir. 2012). At the pleading stage, Quinn Emanuel obtained dismissal of language software provider Rosetta Stone's false endorsement claim under 15 U.S.C. 1125(a) and its state law business conspiracy and unjust enrichment claims. We then won a complete summary judgment for **Google Inc.**, by which all remaining claims that Rosetta Stone had asserted based on Google's advertising programs and trademark policies were dismissed with prejudice. In a lengthy opinion, the Court held that Google was not liable for trademark infringement (whether direct, contributory, or vicarious) or dilution. On appeal, the Fourth Circuit upheld the ruling on vicarious infringement and dismissal of the unjust enrichment claims, agreed with our legal analysis of the dilution claim, and found disputed issues of fact on the direct and contributory infringement claims and remanded those issues. We then moved in limine to lay the grounds for a new summary judgment motion. Following argument on that motion, the case quickly resolved.
- Dallas Cowboys Football Club and NFL Properties v. America's Team Properties (N.D. Tex. 2009). We obtained summary judgment for clients the **Dallas Cowboys** Football Club and NFL Properties LLC in a dispute concerning ownership of the trademark AMERICA'S 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 Cowboys did not own a federal trademark registration for the mark. In a forty-page decision the Court granted the Cowboys and NFL Properties 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 USPTO. America's Team—a nickname understandably despised by rivals of the Dallas Cowboys—remains today, as it has been for decades, an enduring part of the Cowboys' great legacy.