

Intellectual Property Litigation

For more than 50 years, Schnader has zealously enforced our clients' intellectual property rights through litigation and defended our clients against claims of infringement and misappropriation. Our IP Litigation Practice complements our IP Transactional Practice.

Our team includes first-tier trial lawyers, two of whom are Fellows of the American College of Trial Lawyers and one of whom is a Past President of the International Academy of Trial Lawyers, experienced in trying patent, trademark, and copyright infringement cases and cases involving theft of trade secrets. Our group includes lawyers registered to practice before the U.S. Patent and Trademark Office and lawyers with technical backgrounds in chemistry, biology, engineering, computer science, and physics.

Our work on IP litigation starts before a lawsuit is filed. For clients who own intellectual property, we work to identify potential infringers and attempt to resolve disputes short of litigation. For those clients threatened with litigation, we assist in proactively evaluating, defending, and settling those claims.

Our lawyers handle cases strategically and vigorously. We respond on short notice to the immediate needs of our clients. We have experience prosecuting and defending motions for temporary restraining orders and preliminary injunctions.

We have experience coordinating multinational litigation aimed at protecting intellectual property rights in a number of jurisdictions under diverse legal systems. Our international practice of intellectual property law, along with our membership in the TAGLaw alliance, allows us to access lawyers in more than 100 countries.

Patent Litigation

Lawyers in our Intellectual Property Litigation group have successfully represented parties in cases involving a wide range of patented technologies in a variety of industries. Below is a sampling of those cases:

- Representing manufacturers of consumer products, including:
 - Trial of a patent infringement case on behalf of a manufacturer of home water purification products.
 - Litigating cases on behalf of a manufacturer of thermoplastics packaging for sensitive electronic products asserting its patent against multiple infringers.
 - Defending manufacturers of cleaning products against claims of patent infringement.
- Trial of a patent infringement case on behalf of an electronic security company suing for infringement of its patent on the design and manufacturing process for radio frequency security labels used to prevent theft of retail merchandise.
- Representing pharmaceutical and medical device companies, including:
 - Representing a plaintiff patent owner in litigation involving patents for dental implant technology.
 - Defending and settling an infringement lawsuit brought against a manufacturer of assay kits using monoclonal antibodies.
 - Defending and settling an infringement lawsuit brought against a manufacturer of microcatheters used in interventional neuroradiology.
 - Representing a manufacturer of oligonucleotide arrays (DNA on a chip), used for detecting genetic defects, accused of patent infringement.
- Representing the plaintiff, a Japanese manufacturer of photolithography equipment used in semiconductor manufacturing, in its suit for infringement against a competing manufacturer. The defendant paid \$145 million to settle the case.
- Defending and settling claims of patent infringement against a manufacturer of paintball loaders and paintballs.
- Representing the plaintiff in a patent infringement case involving hydrogen peroxide gas vaporizers used by pharmaceutical companies and others for bio-decontamination of instruments and rooms. After two months of discovery, defendant stipulated to the entry of an Order prohibiting it from marketing its infringing product.
- Representing the plaintiff, a manufacturer of high-speed mail-sorting equipment, asserting its patents on such equipment against an infringing competitor and negotiating an ultimate settlement of the dispute.
- Representing a sports trading cards manufacturer accused of infringing patents covering "memorabilia" containing trading cards, obtaining summary judgment that the patent was invalid, which was affirmed on appeal to the Federal Circuit.
- Defending and settling a claim of patent infringement against our client, a German manufacturer of rapid thermal processing equipment used in semiconductor manufacturing.
- Defending a manufacturer of defect-detection equipment for quality-control testing of microchips in a suit for patent infringement brought by a competitor.
- Representing a manufacturer of semiconductors (MOSFETs) sued for infringement of a patented chip design.

Trademark and Trade Dress Litigation

We have successfully prosecuted and defended cases involving trademarks, trade names, trade dress, and domain names for regional, national, and international clients in many different industries, including such representations as:

- Defended a declaratory-judgment action seeking to invalidate our client's rights in registered trade dress. We asserted counterclaims for infringement and settled the matter, preserving our client's registrations.
- Defending a leading U.S. clothing retailer against a claim of infringement involving a logo used on apparel and other soft goods.
- Defending a U.S. bicycle retailer against a claim of infringement involving a logo used in online advertising.
- Representing a retailer in its successful efforts to prevent an international conglomerate with a trade name from entering the U.S. market under that name.
- Enforcing trademark rights on behalf of Ivy League, private, and public universities.
- Prosecuting claims for unfair competition arising from a competitor's fast food outlets that presented an appearance confusingly similar to the appearance of our client's stores.
- Prosecuting and settling claims against defendants who sold counterfeits of our client's cosmetics.
- Handling, through trial, a complex and novel case involving trademarked colors used on industrial products in the metal forming market.
- Representing a manufacturer of famous-named eyeglass frames in disputes over others' use or registration of domain names, both in federal court and in contested proceedings under the Uniform Domain-Name.
- Dispute Resolution Policy (UDRP) governing domain names in the top-level domains.
- Handling numerous trademark disputes that were resolved at an early stage, on behalf of trademark owners as well as accused infringers.

Copyright Litigation

In the field of copyrights, we have represented publishers, broadcasters and other media clients, and sellers of furniture, jewelry, and computer software, both in enforcing their copyrights and in defending against claims of infringement. These wide-ranging matters have involved textbooks, baseball cards, aircraft safety evacuation cards, furniture, jewelry, crystal figurines, photographs and other works of art. Our representations have included:

- Represented the plaintiff in a landmark copyright fair use case, *Cariou v. Prince*, 714 F.3d 694 (2d Cir. 2013), in which the well-known appropriation artist, Richard Prince, and his high-profile art gallery and its owner, Lawrence Gagosian, were sued for copyright infringement. This case was the subject of extensive press commentary and was closely watched in the art world.

- Representing clothing manufacturers (both plaintiff and defense) in disputes and litigation of copyright infringement claims with respect to copyrighted fabric patterns.
- Handling a number of claims of infringement of copyright in computer software.

Licensing and IP Contract Litigation

We often are called upon to protect intellectual property rights in the context of licenses and other agreements. Our lawyers have brought and defended claims for violation of licenses and other intellectual property contracts and have acted to protect, through interpleader, the rights of licensees confronted with competing claims to royalty payments. Such matters include:

- Representation of claimant in a patent-related licensing dispute. After 16 days of hearings during which the parties called 14 experts, an American Arbitration Association panel consisting of three neutral arbitrators issued an award of \$72.5 million in favor of our client.
- A \$12.5 million jury verdict (affirmed on appeal) for a plaintiff in a dispute over a failed joint venture for the development of software designed to transmit full-motion video and audio across a computer network without degrading the performance of other software on the network.
- Representation of a major enterprise software developer in numerous cases around the United States over whether the implementation of the software met the requirements of the parties' agreements.
- Defence at trial of an assignee of a patent against a claim that he failed to make sufficient efforts to market and sell a patented medical device; presented and prevailed on the assignee's claim for the fair market value of his efforts.
- Defence of multiple violation claims pertaining to software license agreements.

Trade Secret Litigation

Schnader is also active in trade secret and unfair competition matters. Our firm has handled several lawsuits involving claims of misappropriation of trade secrets and confidential information by departing employees, contractors, and vendors in a variety of industries. We represented a major university and one of its professors in a theft of trade secrets case. Recently, we defended a direct market cosmetics company against a claim that its new product was based on misappropriated trade secrets.