

IP Litigation

BFKN's Intellectual Property Litigation Group enforces intellectual property rights and defends against infringement allegations in federal and state court actions nationwide. We litigate patent, trademark and unfair competition, copyright, and trade secret disputes. Our litigation experience covers multiple industries, including luxury goods, automotive, financial services, and technology.

The group handles a wide-range of patent, trademark and unfair competition, copyright, and trade secret, and other IP disputes in various courts and venues nationwide.

Trademark & Unfair Competition Litigation

Our attorneys have litigated trademark and unfair competition cases in federal courts throughout the U.S. We stand ready to aggressively enforce our clients' marks and to challenge competitors' false claims. Conversely, when our clients face trademark infringement or false advertising claims, we stand ready to proactively defend their campaigns. We have represented our clients in urgent adversarial matters, such as temporary restraining orders and preliminary injunctions. We have also litigated cases through trial and appeals.

We have unique experience in adversarial matters before the U.S. Patent and Trademark Office's Trademark Trial and Appeal Board. The Board has unique procedural rules that present traps for the unwary. Our attorneys have litigated opposition and cancellation actions through trial to final decisions on the merits. We have also represented clients in Board appeals before the U.S. Court of Appeals for the Federal Circuit.

We have dedicated intellectual property litigators who stand ready to take cases to trial. In addition, as a full-service law firm, we are able to work across practice groups to leverage our trademark prosecution experience and commercial litigation skills to prepare complex cases for trial. We work with the nation's top consumer survey and damages experts to develop and propound case-dispositive evidence.

Our trial experience includes trademark and trade dress litigation on behalf of some of the worlds' most famous luxury brands. We have also successfully represented clients in high-profile advertising disputes. Representative experience includes:

- Obtained a reversal of a preliminary injunction in a high-profile competitor false advertising dispute arising out of the 2019 Super Bowl.

PROFESSIONALS

David H. Bluestone

Carmel I. Dooling

Michael Educate

Michael S. Elvin

Nicholas W. Laird

David B. Lurie

Joshua W. Mahoney

Robert E. Shapiro

Scott J. Slavick

Wendi E. Sloane

Maile Hitomi Solís

Audrey Springer-Wilson

Thomas M. Williams

Law360 named the appellate court's decision the #3 most significant Lanham Act decision of midyear 2020. *Miller Coors Beverage Co. USA, LLC v. Anheuser-Busch Companies, LLC*.

- Represented Off-White in obtaining dismissal of federal trademark dilution claim on grounds that the asserted marks were not famous marks for purposes of the Lanham Act. Obtained dismissal of NY state law claim on grounds that the complaint failed to allege sufficient harm to the public. *Walker Wear, LLC v. Off-White LLC*.
- Represented Cavaliers Hockey Holdings in successful defense of a professional hockey franchise in consolidated USPTO Trademark Trial and Appeal Board trademark opposition proceedings and related cancellation action after full trial on the merits. *Monster Energy Co. v. Cavaliers Hockey Holdings, LLC*.

Copyright Litigation

Our clients' creative works are a top priority. We represent multiple clients in copyright litigation matters involving visual arts and literary works. Our attorneys are highly skilled in U.S. Copyright Office practice and procedure, which allows to quickly assess copyright validity issues impacting infringement claims and defenses. Representative experience includes:

- Defended Make Up Forever in a trademark and copyright infringement claim. Settled the lawsuit on favorable but confidential terms. *VladaMUA, LLC v. Make Up Forever S.A.*

Patent Litigation

We represent clients in utility and design patent infringement matters. Our litigation experience includes competitor litigation, as well as non-practicing entity defense. Our practice includes federal court, U.S. International Trade Commission, and United States Patent and Trademark Office litigation. We have handled matters involving numerous technologies, including semiconductors, hearing instruments, x-ray devices, plastics, online gaming, software, biology, and mechanical devices. Our design patent experience has been applied to a range of products, including luxury goods, beauty products, and medical devices. Representative experience includes:

- Represented OmniVision Technologies, Inc. in a complete win against Acacia Research Group subsidiary including final judgment of non-infringement with no payments made to the plaintiff. *ID Image Sensing LLC v. OmniVision Technologies, Inc.*
- Lead patent counsel for Varex Imaging Corporation asserting infringement of two patents related to X-ray tube technology used in CT scanners and trade secret misappropriation against competitor

Richardson Electronics, Ltd. Case resolved favorably for client. *Varex Imaging Corporation v. Richardson Electronics, Ltd.*

- Successful defense of OmniVision patent in *inter partes* review challenge. *Jiangu SmartSens Technology Co., Ltd et al v. OmniVision Technologies, Inc.*

Trade Secrets

We have extensive experience in the protection of our clients' trade secrets and sensitive business information. We litigate trade secret and non-compete disputes across the country under the Defend Trade Secrets Act and related state laws. Representative experience includes:

- Lead counsel for Kaplan Professional in federal district court action under the Defend Trade Secrets Act involving former employees recruited to join a direct competitor. *DF Institute, LLC d/b/a Kaplan Professional v. Dalton Education, LLC et al.*
- Lead trial counsel to Mediware Information Systems (now known as WellSky) in its lawsuit against HemaTerra, a company founded by former Mediware employees. Mediware sued HemaTerra alleging theft of trade secrets and customers. The case ended in a confidential settlement shortly before trial was set to begin. *Mediware Information Systems, Inc. v. HemaTerra Technologies, LLC.*