

## Intellectual Property Litigation

Our Intellectual Property (IP) Litigation Team includes nationally- and internationally-recognized patent, copyright and trademark lawyers with extensive experience representing clients in complex intellectual property dispute resolution. We have the technical knowledge and advocacy skills to successfully help you protect your brand, your art or your invention.

Our representative clients include:

- Adelos, Inc.;
- Aviation Partners, Inc.;
- Accretive Technology Group;
- Corbis;
- Umpqua Bank;
- Ericsson Television, Inc.;
- Skechers USA, Inc.;
- Sony Mobile Communications (USA) Inc.;
- Lundberg, LLC;
- Alfred E. Mann Foundation for Scientific Research; and
- Intelius.

We serve as fierce, knowledgeable advocates for clients in litigation in state and federal courts. Our experience also includes helping clients resolve international intellectual property disputes. We represent clients in matters related to:

- Trademark infringement;
- Trade secrets;
- False Advertising;
- Patent Trial and Appeal Board proceedings;
- Consumer Protection Act claims;
- Rights of publicity;
- Copyright infringement;
- Domain names;
- Trade dress;
- Deceptive trade practices;
- International Trade Commission claims;
- Digital Millennium Copyright Act (DMCA) claims;
- Patent infringement;

- Software agreement claims;
- Plant patents;
- Trademark Trial and Appeal Board proceedings; and
- IP licensing disputes.

## Our Approach

We work with clients to identify whether litigation is the right path, providing them with an early case assessment that brings together our analysis of the facts, our decades of experience and our technical knowledge of the issue at hand. We work seamlessly with members of our Intellectual Property Transactions team to identify possible risks and creative solutions that could help you reach your goals without litigation.

Should litigation be determined to be the right path forward, we make sure we have the best team on the case and work collaboratively with you to develop a case strategy and budget for the matter.

## Shared Risk

Our team is fortunate to work at a firm that provides a platform that allows us to share in risk with our clients. We are open to success-based litigation arrangements, and will take on contingency cases meeting the right criteria.

## Recognition

Lane Powell has been named a top trademark firm by *World Trademark Review 1000*, and as a top patent firm by *IAM Patent 1000*, whose source describes us as a team who “wins particular plaudits for its litigation, and is strong and flexible enough to handle a range of tricky matters.”

Our IP Litigation Team is consistently recognized as a leader by *Chambers USA: America’s Leading Lawyers for Business*, within which a source states: “They have excellent expertise with a good depth and breadth of practice – a one-stop shop.” Sources also said that “They have always been very responsive, accessible and professional. They are knowledgeable, reasonable and practical in terms of their advice” and that “they understood trademark law and how it applies to us, as well as how we can best utilize that in defending our trademarks and in establishing and registering new trademarks.”

## Experience

### **Benson v. NFC Data, Inc.**

Case No. 1:12cv1161, 2013 U.S. Dist. LEXIS 63115

Lead defense counsel in patent ownership proceeding in the Virginia Eastern District Court (“rocket docket”) and prevailed for client in preliminary injunction proceedings.

### **A. H. Lundberg Associates, Inc. v. TSI, Inc.**

Case No. 2:14-CV-01160 | U.S. District Court, Western District of Washington | Seattle, Washington

Represented client Lundberg LLC in trade secret litigation through trial, secured injunction and attorneys' fees, and argued expert-related claim at the Court of Appeals for the Ninth Circuit.

### **Fruit Farmer Right of Publicity Case**

Resolved a right of publicity (personality rights) case brought by a former model.

### **Evergreen Safety Council v. RSA Network, Inc.**

Case No. 2011 U.S. Dist. LEXIS 64261 aff'd 697 F.3d 1221, 104 U.S.P.Q.2D (BNA) 1380, Copy. L. Rep. (CCH) ¶ 30,333 | U.S. Court of Appeals, Ninth Circuit

Successfully defended Evergreen Safety Council in defeating a copyright infringement claim filed by RSA for the use of traffic safety diagrams and text.

### **Alaskasland v. Kevin Cross, et. al**

Successfully defended realtor defendants and obtained a complete summary judgment victory against claims for misappropriation, trademark infringement and defamation among others. Appeal now pending.

### **Coble v. Anita Renfroe, LLC et al**

Case No. 2:2011cv00498 | U.S. District Court, Western District of Washington

Successfully defended author and entertainer Anita Renfroe in a copyright and trademark infringement suit.

### **Recaro North America, Inc. v. Speedware Motorsports**

Successfully defended respondent in World Intellectual Property Organization (WIPO) domain name dispute.

### **Mirina Corp. v. Marina Biotech, Inc.**

Successfully defended against a preliminary injunction motion in trademark infringement case.

### **Attachmate Corporation v. Celcom Axiata Berhad**

Case No. 2:2010cv00526 | U.S. District Court, Western District of Washington

Successfully represented the largest cellular phone company in Malaysia and obtained a complete victory against claims brought by Seattle-based software company Attachmate Corporation. Attachmate had sued Celcom for copyright infringement and breach of contract arising out of the alleged over-installation of software. Attachmate sought damages of more than \$5 million. Celcom moved to dismiss the complaint based on copyright doctrines of extraterritoriality and preemption, as well as personal jurisdiction. Judge Ricardo Martinez granted Celcom's motion in its entirety.

### **Electric Mirror LLC v. Janmar Lighting Inc.**

Obtained dismissal in suit seeking declaratory judgment of non-infringement and/or invalidity of Janmar's patent based on lack of personal jurisdiction over defendant, Janmar Lighting, Inc.

### **Gerawan Farming, Inc. v. Prima Bella Produce, Inc**

Case No. 1:10-cv-00148-LJO | U.S. District Court, Eastern District of California | Fresno, California

Defended Prima Bella Produce against federal and state claims for trademark infringement, dilution and unfair competition brought by Gerawan Farming, a case that ended in a confidential settlement agreement.

## **FLIR Systems, Inc. v. Sierra Media, Inc. et al**

Case No. 3:2010cv00971 | U.S. District Court, District of Oregon

We represented Fluke Corporation against false advertising claims filed by a competitor, FLIR Systems, Inc., in a nine-day jury trial at the U.S. District Court of Oregon.

## **Defended Trademark Infringement Claims for a Global Nutrition and Weight Management Company**

U.S. District Court, District of Oregon

Represented global nutritional products company in suit involving alleged trademark infringement and breach of contract.

## **adidas America, Inc. et al v. Skechers USA, Inc.**

Case No. 3:15-cv-01741-HZ | U.S. District Court, District of Oregon

Defending Skechers, as local counsel, against trademark and trade dress infringement, dilution, unfair competition and breach of contract claims asserted by adidas.

## **Attachmate Corporation v. Tarmac Ltd.**

Case No. 2:2008cv01370 | U.S. District Court, Western District of Washington

Defended Tarmac Ltd. in a multi-million dollar defense of a software copyright infringement lawsuit.

## **Attachmate v. HealthNet**

Case No. C09-1161 MJP | U.S. District Court, Western District of Washington | Seattle, Washington

Defended Computer Talk on a copyright infringement dispute initiated by Attachmate, a software company, for the alleged infringement of its software programs and breach of licenses, one of a number of times we have defended companies sued by Attachmate.

## **Chevron U.S.A., Inc. v. Pelican Butte Oil, LLC**

Case No. 1:10-cv-03063 | U.S. District Court, District of Oregon

Represented Chevron in a series of unfair competition; trademark infringement and dilution; and deceptive and unlawful trade practices suits.

## **Cassidian Communications, Inc. v. Synergem Emergency Communications, LLC et al**

Case No. 6:13-cv-00216-CEH-TBS | U.S. District Court, Middle District of Florida

Defending Synergem Technologies in a bet-the-company case alleging claims under a patent for a system and method for supporting multiple call centers.

## **Chevron Corporation Unfair Competition and Trademark Matters**

Represented Chevron in a series of unfair competition; trademark infringement and dilution; and deceptive and unlawful trade practices suits.

## **Convergja Networks, Inc. and Future Electronics Inc. v. Huawei Technologies Co., Ltd.\***

Represented Convergja Networks, Inc. in litigation involving breach of contract, fraudulent, inducement, and willful and wanton misconduct.

## **Collegenet, Inc. v. Google, Inc.**

Case No. 10-cv-01211 | U.S. District Court, District of Oregon

Acted as co-counsel successfully defending Google in a trademark infringement suit brought by CollegeNet over a Speedbook mark. After CollegeNet moved for a preliminary injunction and Google cross-moved for a pre-answer dismissal, the parties agreed to stay the case and later to dismiss the case with prejudice.

## **Donuts, Inc. v. Rightside Group, Ltd.**

Represented Rightside in arbitration, in one of the first cases in the country testing the scope and definitions of registry service agreements.

## **Enterprises International, Inc. v. International Knife & Saw, Inc.**

Case No. C12-5638 BHS, 2014 U.S. Dist. LEXIS 101375; Copy. L. Rep. (CCH) ¶ 30,641, recons. denied, 2014 U.S. Dist. LEXIS 124221 | U.S. District Court, Western District of Washington

Defended International Knife and Saw, a South Carolina-based manufacturing company, against claims for the misappropriation of intellectual property.

## **GeoTag Inc v. Frontier Communications Corp et al**

Case No. 2:2010-cv-00265 | U.S. District Court, Eastern District of Texas

Defended Intelius/inome in a patent infringement suit for a locator service, alleging that that Intelius infringes a patent for database searches that are both geographical and topical.

## **Golden Temple of Oregon, LLC v. Puri**

Case No. 12-10-03055 | U.S. District Court, District of Oregon

Represented Golden Temple in this case involving a demand to inspect records pursuant to a licensing arrangement, an inspection of which our clients disputed the scope as too broad.

## **Haute Bride-Haute Jewels, LLC v. Nordstrom Inc.**

Case No. 2:13-cv-01755-RSM | U.S. District Court, Western District of Washington

Defended Nordstrom against copyright and false-designation-of-origin claims stemming from a bridal headband.

## **Julep Beauty, Inc. Patent Infringement Claims by Eclipse IP**

Assisted Julep, a leader in the cosmetics industry, in responding to patent infringement allegations made by Eclipse IP.

## **Kforce Inc. v. Oxenhandler**

Case No. 2:14-cv-00774-MJP | U.S. District Court, Western District of Washington | Seattle, Washington

Represented Kforce, a specialty-staffing firm, who brought a trade secret and unfair competition suit against two former employees and a recruiting firm. Obtained highly favorable settlement at mediation.

## **Ormco Corp. v. World Class Technology Corp (Appeal)**

Case No. Appeal Nos. 2013-1679 and 2014-1692

Represented World Class Technologies in this patent infringement matter involving orthodontic braces.

## **REC Software USA, Inc. v. Sony Mobile Communications (USA) Inc.**

Case No. 2:14-cv-01060-MJP | U.S. District Court, Western District of Washington

Defending Sony, and brought a declaratory judgment counterclaim, in this patent infringement suit concerning mobile electronic devices.

## **Union Square Partnership, Inc. v. Savitri Durkee\***

Represented Savitri Durkee in copyright infringement suit by Union Square Partnership. Counterclaimed and sought declaration of non-infringement of trademark, declaratory and injunctive relief under the Anti-cybersquatting Consumer Protection Act, 15 U.S.C. 114(2)(D)(v), and violation of New York Anti-SLAPP Act, N.Y. Civil Rights Law 70-a, 76-a.). Favorable settlement.

## **Viacom International Inc. et al. v. YouTube, Inc. et al.\***

Successfully represented YouTube, Inc. in copyright infringement suit by Viacom and related action by class plaintiffs.

## **World Class Technology Corp. v. Ormco Corporation**

Case No. 2013-1679; 2014-1692 | U.S. Court of Appeals, Federal Circuit

Represented World Class Technology in a case against one of its largest competitors, Ormco Corporation. The case sought a declaratory judgment that WCT did not infringe Ormco's patent relating to an orthodontic bracket.

## **Plant Patent Advice and Counsel**

Provided advice and counsel regarding plant patent rights in connection with a trademark dispute over certain patented and trademarked varietal plant names.

## **Rad Power Bikes v. Lectric Cycles**

Represented Rad Power Bikes in a USPTO trademark dispute over rights to the RAD family of marks in connection with electric bikes; case settled during pretrial discovery.

## **Expert Witness Consulting Regarding Food Composition Patenting**

Prepared expert witness consulting and expert witness report regarding the patentability of a U.S. food composition patent application in connection with a patent legal malpractice claim.

## **Convertpac Non-compete and Trade Secret Matter**

Filed declaratory judgment action to relieve purchaser of paper products business from covenant not to compete and common law trade secrets obligations arising from aborted purchase. Conducted bench trial and secured relief from covenant well beyond settlement offers.

## **First Union Non-compete and Trade Secrets Suit**

Defended recruiting firm and brokers in three cases brought by recruits' former employer who alleged breach of non-compete and trade secrets misappropriation. Defeated injunctions and obtained small liability awards at arbitrations.

## **Lewandowski v. Loring Ward, Pershing, FSC Securities and Terwedo**

Case No. 09-04075 | FINRA

Appeared for investment adviser and clearing broker and induced counsel for claimant to dismiss those parties with prejudice.

### **Lincoln Life Non-compete and Trade Secrets Suit**

Represented annuities issuer preliminarily enjoining former securities broker/insurance agent (who had no non-competition covenant in agency agreement) from competing unfairly, misleading customers and misappropriating trade secrets; dismissed \$5 million sex discrimination counterclaims at hearing.

### **Canyons Restaurant Trademark Infringement Suit**

Won a preliminary injunction for a local restaurant enjoining trademark infringement by a national chain and resulting in the national chain changing its name in this area.

### **Heath & Company Trademark Infringement Suit**

Secured preliminary injunction in Seattle federal district court for trademark infringement and unfair competition on behalf of national sign company, then obtained favorable settlement of damages claims.

### **InstruMed, Inc. v. Smith & Nephew Richards Trademark Infringement Case**

Secured verdict of willful infringement and unfair competition in federal court jury trial and award of damages, costs and attorney fees.

### **Edward D. Jones & Co. L.P. v. Mark Anderson**

Case No. 12-2-34362-4 SEA | King County Superior Court

Obtained dismissal of TRO motion against financial advisor who had transferred to new firm and "announced his new employment" instead of soliciting in violation of employment contract provisions and the trade secrets act, then procured highly favorable settlement.

### **Bostwick Laboratories v. Cortex Medical Management Systems**

Multiple claims related to software systems designed for pathology laboratories.

### **Callison Architecture Inc. v. Cordax Inc.**

Software development and trade secret dispute.

### **Rosie O'Donnell v. Entercom Portland**

Defense of trademark infringement and dilution and right of publicity claims and pursuit of antitrust and unclean hands affirmative defenses.

### **Microprobe Founder Employment and Intellectual Property Matter**

Worked out mutually satisfactory termination agreement separating out intellectual property of client, a founder of Microprobe, from that of former business.

## Wade Cook v. Quantum Vision

Opposed and defeated TRO and preliminary injunction motions brought by Wade Cook Seminars against former Wade Cook speakers, employees and competing seminar firms. Prevailed on the merits with small liability award in arbitration.

## Compana LLC v. Aetna, Inc.

Case No. C05-0277L, 2006 WL 829111 | U.S. District Court, Western District of Washington

Obtained summary judgment dismissal of claims for trademark infringement, unfair competition, anti-dilution, and for the violation of anti-cybersquatting consumer protection act and Washington consumer protection act regarding registration and use of domain name.

## Wade Cook v. Tony Robbins

Defended Robbins Research, Inc. and Tony Robbins in infringement and trade secrets case in state court in Washington brought by Wade Cook Seminars. Case settled favorably.

## Shell v. Lindal Cedar Homes

Won an arbitration award and judgment for copyright infringement for architectural works against a leading manufacturer of homes.

## Intellectual Property Litigation

### Heart, LLC v. Heart Pizza, LLC

Representing award-winning coffee chain enforcing its trademark rights against infringing chain of pizza restaurants that established its flagship restaurant less than two blocks away from one of our client's primary cafés.

*\* Denotes experience at a previous firm*

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## Contact(s)

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