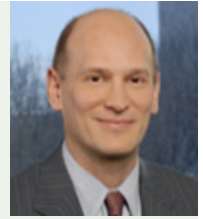


John P. Margiotta



Practice Description

Mr. Margiotta is a partner at Fross Zelnick and a member of the firm's litigation and dispute resolution group. He litigates, mediates, and arbitrates copyright, trademark, false advertising, unfair competition, rights of publicity and libel cases. He has appeared in federal district and appeal courts across the country, and before the Trademark Trial and Appeal Board, acting on behalf of plaintiffs and defendants alike. He has also appeared in domain-name recovery cases before the World Intellectual Property Organization. He has represented clients from a diverse spectrum of industries, including musical entertainment, apparel, alcoholic and non-alcoholic beverages, pharmaceuticals and consumer electronics. He also offers counseling on trademark availability, licensing, bringing counterfeit and infringement actions, and filing opposition and cancellation proceedings before the Trademark Trial and Appeal Board.

Education

College of the Holy Cross (A.B. with Honors, 1993); Harvard Law School (J.D. cum laude, 1996); Columbia University School of Journalism (M.S. 1997).

Professional Activities

Member: North American Subcommittee of the International Trademark Association's Anti-Counterfeiting; Enforcement Committee (2004-2005).
Adjunct Professor: Law at Brooklyn Law School (2003-2004).

Admissions

New York State
United States Court of Appeals for the Seventh, Ninth and Federal Circuits
United States District Courts for the Southern and Eastern Districts of New York

Selected Cases

[Cartier International AG v. Coachman](#)

Opp. No. 91209815 (T.T.A.B. Oct. 5, 2016)

The Firm, on behalf of our client Cartier International A.G., prevailed in an opposition proceeding before the Trademark Trial and Appeal Board of the United States Patent and Trademark Office. Cartier had opposed an application to register the mark TRINITY in connection with leather handbags on the basis of likelihood of confusion with its own TRINITY mark for jewelry. The Board held that confusion was likely, finding that Cartier's TRINITY mark was strong and that jewelry and handbags were related.

[Kam Hing Enterprises, Inc. v. Wal-Mart Stores, Inc. et al.](#)

Case No. 07 CV 2316 (S.D.N.Y. Feb. 18, 2009), aff'd, 359 Fed.Appx. 235 (2d. Cir. 2010)

The Firm prevailed after trial, winning in excess of \$2 million dollars for a copyright infringement claim brought on behalf of client Kam Hing Enterprises, Inc. Prior to trial on damages, in what the Court noted was a rare instance of granting summary judgment to a plaintiff on liability in a copyright infringement case, the Court found the copyrighted works at issue (quilts) strikingly similar, and defendants liable for copyright infringement.

[Polar Bear Productions, Inc. v. Timex Corp.](#)

No. 05-35811, 2007 WL 2193541 (9th Cir. July 31, 2007); 384 F.3d 700 (9th Cir. 2004)

The firm successfully concluded its representation of Timex Corporation in its defense against copyright and trademark infringement claims brought against it by Polar Bear Productions, Inc. In 2002, when our firm first became involved in the case, Polar Bear had been awarded a \$2.415 million jury verdict for Timex's copyright infringement of a kayaking video entitled "PaddleQuest." We took over the appeal, and, in 2004, the Ninth Circuit vacated the entire \$2.1 million award under Section 504(b) of the Copyright Act of Timex's profits allegedly attributable to the copyright infringement as unduly speculative and cut the damage award from \$315,000 to \$115,000 on the same grounds. The case was then remanded to the district court on Polar Bear's remaining trademark claims. Upon Timex's motion, the court dismissed all of Polar Bear's remaining trademark claims, and Polar Bear appealed the dismissal of its claims to the Ninth Circuit. The Ninth Circuit, in an unpublished opinion dated July 21, 2007, affirmed final dismissal of the case.