

Litigation

Fross Zelnick's litigation practice focuses entirely on trademark, copyright, design patents and related areas. In addition to representing clients in both state and federal courts, our IP-only litigators have deep experience in opposition and cancellation proceedings at the USPTO's Trademark Trial and Appeal Board (TTAB) and with arbitration and mediation. Clients benefit from our dedicated team's understanding of critical subtleties that can adversely or positively affect a litigation outcome.

From small cases to bet-the-brand litigation, our reputation for success frequently enables us to favorably resolve disputes long before cases go to trial. And for those matters that are decided on preliminary injunctions, dispositive motions or after a full trial on the merits, Fross Zelnick has a strong track record – including setting precedent and obtaining difficult-to-achieve findings for our clients. When not in court, our litigators regularly provide strategic litigation advice, both offensively and defensively, to help clients avoid court when they can and best position them to litigate when they want.

Strengths that Matter to our Clients

Trademarks and Trade Dress – We have handled cases involving every kind of trademark, from word marks to product designs, phrases, shapes and characters. Our cases run the gamut, from validity, priority and ownership, to infringement, dilution and fair use.

Copyright and Copyright Termination – Our team represents clients in the latest copyright matters, but our renown comes from a long history of notable work. One of our partners represented the plaintiff in the seminal copyright fair use case *Harper & Row v. Nation Enterprises* in the 1980s, and we have prevailed in copyright matters for a diverse array of clients including jewelry designers, insurance companies, automobile makers, and other clients whose products, websites, brochures and even insurance policy texts need protection or have been challenged. The firm has also been involved in a number of notable cases involving copyright termination, including litigation involving the *Superman*, *Tarzan* and *Winnie the Pooh* properties.

Design Patents – We defend and enforce clients’ rights in design patent disputes and related actions abroad, consistently adding value to the advice provided by our worldwide network of accomplished and proven foreign counsel.

Trademark Trial and Appeal Board Litigation – Our IP litigators have a thorough knowledge of the particular rules and procedures that apply when litigating TTAB proceedings, as well as the precedents and presumptions that the TTAB considers in making its decisions. Additionally, since TTAB proceedings are largely governed by the Federal Rules of Civil Procedure, we believe that TTAB matters are best handled by lawyers like ours – trial lawyers who focus exclusively on IP disputes. When litigation is required, we are already up to speed and, most importantly, as we pursue TTAB resolution, we know how to avoid anything in these proceedings that would compromise our clients in any future litigation.

International – Our lawyers who focus on international trademark matters have significant experience coordinating foreign jurisdiction disputes relating to global trademark opposition, revocation and invalidity proceedings, as well as cancellation, infringement and counterfeiting actions and copyright, design-related and publicity or privacy rights. We have supervised litigation, as well as opposition and cancellation actions in Europe, Latin America, the Middle East and Asia. We consistently augment the value of the advice provided by our worldwide network of accomplished foreign counsel – we select the best in each jurisdiction to help us resolve any particular matter.

Related Rights (Publicity, Privacy, Idea Submission, Trade Secrets)

Our lawyers have represented clients in some of the leading cases in the right of publicity area, which is governed by state law and directly affects a client’s ability to use individuals’ names, images and personas in advertising materials and on products and services. We regularly counsel clients on uses of celebrity names and likenesses, and on protocols for securing right of publicity or “personality rights” waivers from those appearing in promotional literature or on websites.

Arbitration and Mediation – Our deep knowledge of IP law, enforcement strategies and transactions provides a strategic advantage for our clients when disputes are resolved by arbitration or mediation. Knowing the ins and outs of IP rights and agreement structures helps us to resolve matters in ways that are most advantageous to our clients.

Decisions

Honeywell Safety Products USA, Inc. v. ERB Industries, Inc.

UMG Recordings, Inc. v. KG Music Center LLC

Luv n' Care, Ltd. v. MAM Babyartikel GmbH

Genzyme Corporation v. Hilali Noordeen

Chatham Imports, Inc. v. Driftless Pure, LLC

APP Group (Canada) Inc. d/b/a Mackage and A.P.P. Group Inc. d/b/a Mackage v. Rudsak USA Inc.

Moshik Nadav Typography LLC v. Banana Republic, LLC

Old Navy (Apparel), LLC v. Blissman

Garan Inc. & Garan Services Corp. v. Manimal, LLC

UMG Recordings, Inc. v. Siggy Music, Inc.

Three Thirteen Licensing, LLC v. Marshall B. Mathers III

Saleh v. Sulka Trading Ltd., et al.

Retrobrands USA LLC v. Intercontinental Great Brands, LLC

Robert Kirkman, LLC v. The Toking Dead

Sawicky v. AMC Networks Inc.

Royal Crown Co. v. Coca-Cola Co.

Asuragen, Inc. v. Accuragen, Inc.

Hoop Culture, Inc. v. The Gap, Inc.

Burroughs v. MGM

Janet Jackson v. Janetjackson.com

Carvel Corp. v. The Ice Cream Bakery, Inc.

Buffett v. Cheeseburger in Paradise, Inc.

Henri Bendel, Inc. v. Sears, Roebuck and Co.

National Basketball Association v. Motorola

Carillon Importers v. Frank Pesce Int'l Group

Hormel Foods Corp. v. Jim Henson Productions, Inc.

Lane Capital Mgmt. Inc. v. Lane Capital Mgmt. Inc.

Revelations Perfume v. Prince Rogers Nelson

Creative Arts by Calloway, LLC v. Brooks

American First Run Studios v. Edgar Rice Burroughs, Inc.

Anheuser-Busch, Inc. v. Balducci

Athleta, Inc. v. David Sales

Athleta, Inc. v. Pitbull Clothing Co.

Body Wisdom Media, Inc. v. Athleta, Inc.

Cabot Company Limited d/b/a Cabot Watch Company v. Combat Watch Company, LLC

Cartier International AG v. Coachman

Cavalier v. The Jim Henson Co., Inc.

Chanel, Inc. v. Makarczyk

Atlas v. DC Comics

Citizen Watch Co. of Am. v. BJ's Wholesale Club

Clinique Laboratories LLC v. Absolute Dental, LLC

Copp v. Ramirez

Cordon Art B.V. v. Walker

Crown Awards, Inc. v. Discount Trophy & Co., Inc.

DC Comics v. Powers

DC Comics v. Beling

DC Comics v. Gotham City Networking, Inc.

DC Comics v. Kryptonite Corp.

DC Comics v. Mad Engine, Inc.

DC Comics v. Oliveri

DC Comics v. Towle

DC Comics, Inc. v. Filimation Associates, Inc.

De Beers LV Trademark Ltd. v. DeBeers Diamond Syndicate, Inc.

Murray v. British Broad. Corp.

Dr Pepper/Seven Up, Inc. v. Krush Global Limited

Echo Design Group, Inc. v. Zino Davidoff S.A.

EFS Marketing, Inc. v. Russ Berrie & Co.

Entrepreneur Media, Inc. v. EYGN Ltd.

Financial Matters v. PepsiCo, Inc.

Foey v. Gap

Frank Sinatra Enters., LLC v. Loizon

Fruit-Ices Corp. v. Coolbrands Int'l, Inc.

Glow Indus., Inc. v. Lopez

American Express Co. v. Vibra Approved Labs Corp.

Chanel, Inc. v. Camacho & Camacho LLP

Harper & Row Publishers, Inc. v. Nation Enterprises, Inc.

Hits From the Bong, Inc. v. Javen Mitchell

Hogarth v. Edgar Rice Burroughs, Inc.

I.M.S. Inquiry Mgmt. Sys., Ltd v. Berkshire Info. Sys., Inc.

Institute for the Development of Earth Awareness v. People for the Ethical Treatment of Animals

Inter-IKEA Systems B.V. v. Akea, LLC

Inter-IKEA Systems B.V. v. Arsen Manasyan

Jack Wolfskin Ausrüstung Fur Draussen GmbH & Co. KGAA v. New Millennium Sports, S.L.U.

Jackson v. Booker

Jane Ring v. Estee Lauder, Inc.

JR Tobacco of America, Inc. v. Davidoff of Geneva (CT), Inc.

Jumbo Bright Trading Limited v. The Gap, Inc.

Kam Hing Enters., Inc. v. Wal-Mart Stores, Inc.

Kenner Parker Toys Inc. v. Rose Art Indus., Inc.

Kraft Foods Group Brands LLC v. Cracker Barrel Old Country Store, Inc.

Lacoste Alligator S.A. v. Maxoly, Inc.

Luv N'Care, Ltd. v. Babelito, S.A.

Lynch Jones & Ryan v. Standard & Poor's

M&G Elecs. Sales Corp. v. Sony Kabushiki Kaishi

Maher & Maher, Inc. v. Unisonic Products Corp.

Mariah Carey v. General Web Group

Market Corner Realty Assoc's, LLC v. CGM-GH LLC

McNeil-PPC, Inc. v. Walgreen Co.

Milne v. Stephen Slesinger, Inc.

Missing Cougar Co. v. Edgar Rice Burroughs, Inc.

Movado Corp. v. Global Computer Corp.

Nabisco Brands, Inc. v. Conusa Corp.

Overbeck Corp. v. Overbeck GmbH

Palm Bay Imports, Inc. v. Veuve Clicquot Ponsardin Maison Fondée en 1772

Perfetti Van Melle USA v. Cadbury Adams USA LLC

Playboy Enterprises v. Dumas

Polar Bear Productions, Inc. v. Timex Corp.

Pump, Inc. v. Collins Management

Regulatory Fundamentals Grp. LLC v. Governance Risk Mgmt. Compliance, LLC

Rodan & Fields, LLC v. Estée Lauder Cos.