Cooley

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Intellectual Property
Intellectual Property Litigation
Patent Office Litigation
Trade Secret Litigation & Dispute Counseling
Technology
Internet & Social Media
Software
Semiconductor
Medtech

Mark Weinstein's practice focuses on patent and other complex technology-related disputes. He has handled a number of high-stakes litigations throughout the US involving a variety of technologies, including computer software and hardware, Internet applications, electronic transactions, e-commerce, computer networking, entertainment software and medical devices.

Recent cases include:

Patents

- **Facebook** in more than a dozen patent infringement actions, including *Yahoo! Inc v. Facebook, Inc.* (N.D. Cal.), *Leader Technologies, Inc. v. Facebook, Inc.* (D. Del.), *Tele-Publishing, Inc. v. Facebook, Inc.* (D. Mass.), *Mekiki Co., Ltd. v. Facebook, Inc.* (D. Del.), *Cross-Atlantic Capital Partners, Inc. v. Facebook, Inc.* (E.D. Pa.), *Unified Messaging Solutions LLC v. Facebook, Inc.* (E.D. Tex.), *Walker Digital, LLC v. Facebook, Inc.* (D. Del.) and several others.
- **HTC Corporation** and **HTC America** in several patent litigations including *HTC v. Technology Properties Ltd.* (N.D. Cal.), *Digitude Innovations LLC v. HTC* (D. Del. and U.S. ITC), *ADC Technology, Inc. v. HTC et al.* (N.D. Ill.), *Microunity Systems Eng'g v. HTC et al.* (E.D. Tex.) and *BandSpeed, Inc. v. HTC Corp. et al.* (W.D. Tex), *SP Technologies, Ltd. v. HTC et al.* (N.D. Ill.), *Implicit Networks, Inc. v. HTC* (N.D. Cal.) and several others.
- **LinkedIn** in *Jaipuria v. LinkedIn Corp. et al.* (E.D. Tex.) and *Cathas Advanced Technologies LLC v. LinkedIn Corp.* (D. Del.)
- **EMC Corporation** in *Hewlett-Packard Company et al. v. EMC Corporation* (N.D. Cal.), a patent infringement suit involving 13 patents relating to mass data storage systems, servers and printers. HP initiated the lawsuit by suing EMC for alleged infringement of seven patents. EMC counterclaimed against HP with six of its own patents. Following claim construction proceedings and motion practice, the case settled with HP agreeing to pay EMC more than $325 million, one of the largest patent settlements on record.
- **In-Three, Inc.** in *IMAX Corporation v. In-Three, Inc.* (C.D. Cal.), a patent infringement suit involving software for producing three dimensional motion pictures. In-Three defeated a motion for preliminary injunction filed by IMAX that threatened to shut down In-Three's operations.
- **eBay** in *Tumbleweed Communications Corp. v. eBay, Inc. et al.* (N.D. Cal.), defended eBay and its subsidiary PayPal against allegations of infringement of three software patents related to electronic financial transactions. The case settled on favorable terms during the pendency of a summary judgment

motion filed by eBay and PayPal that sought to invalidate Tumbleweed's patents in light of the prior art.

Trade Secrets

- **Cirrus Logic** in *Silvaco Data Systems v. Cirrus Logic, Inc.* (Santa Clara Sup. Ct.), a trade secret lawsuit involving Electronic Design Automation technology. Cirrus Logic obtained summary judgment that it did not misappropriate any of the plaintiff's trade secrets, which was affirmed on appeal.
- **Alstom ESCA** in *ABB Power T&D Company v. Alstom ESCA Corporation et al.* (N.D. Cal.), Mark was a member of a team representing Alstom in a six week federal jury trial involving claims for trade secret misappropriation, copyright infringement, breach of contract and a variety of business torts, which resulted in a unanimous verdict exonerating the client from liability. The technologies in the case related to hardware and software systems for the electric power industry.
- **Advanced Modular Sputtering (AMS)** in *Sputtered Films, Inc. v. Advanced Modular Sputtering, Inc. et al.* (Santa Barbara Sup. Ct.), a trade secret case involving PVD sputtering technologies. The case generated an oft-cited decision clarifying California's statute requiring plaintiffs to identify their trade secrets, Advanced Modular Sputtering v. Superior Court, 132 Cal. App. 4th 826 (2005).
- **Minerva Networks i**n *Myrio, Inc. v. Minerva Networks, Inc.* (N.D. Cal.), defended Minerva against trade secret, unfair competition and false advertising claims involving technologies for delivering television and multimedia services over broadband networks. The case settled favorably after the court ruled that Myrio had failed to adequately identify its trade secrets.

Technology/IP Licensing

- **DVD Copy Control Association (DVD CCA)** in *RealNetworks, Inc., et al. v. DVD Copy Control Association, Inc. et al.* (N.D. Cal.) and *DVD Copy Control Association, Inc. v. Kaleidescape, Inc.* (Santa Clara Sup. Ct.), represented DVD CCA in two separate actions alleging breach of the technology license that covers use of the Content Scramble System (CSS) technology that is used to prevent copying of motion picture DVDs. DVD CCA obtained an injunction from the trial courts in both actions prohibiting sales of products that did not comply with the license. The Kaleidescape action is currently on appeal.
- **Marshal Software** a leading producer of Internet security and anti-spam software, in three trademark and unfair competition lawsuits against competing companies. All three cases resulted in the defendants agreeing to rebrand their products to avoid any use of Marshal's trademarks.

Mark is a frequent lecturer on all aspects of intellectual property protection and has taught classes at Santa Clara University School of Law. Prior to joining Cooley, he was a partner at a large international law firm and served as the managing partner in charge of that firm's Silicon Valley office. He is also a former law clerk for the Honorable Thomas J. Whelan, District Judge, United States District Court for the Southern District of California.

Education

University of San Diego School of Law
JD, 1997

University of California, San Diego
BS, 1992

Admissions & Credentials

California

Court Admissions

US Court of Appeals for the Federal Circuit

US District Court for the Central District of California

US District Court for the Northern District of California

US District Court for the Southern District of California

US District Court for the Eastern District of Texas

Supreme Court of the United States

Rankings & Accolades

Managing Intellectual Property: IP Star

Legal 500: Intellectual Property: Patents - Litigation