

## **Our Experience Associating in on Eve of Trial and Successfully Working Alongside Other Law Firms**

We are often retained to do the final pre-trial and trial work in cases in which another firm has represented the client up until that point. We are not daunted by the prospect of taking over a case with only weeks, or sometimes days, to go before trial. Often it will be to the client's advantage to keep previous counsel involved given their significant involvement and intimate knowledge of the facts in the case to that point. In such circumstances, there is understandably potential for friction between the new and the old lawyers. It is a point of pride at our firm that we have a record of being able to work efficiently and collaboratively with previous counsel.

### **RECENT REPRESENTATIONS IN WHICH WE WERE ASSOCIATED OR SUBSTITUTED IN AS TRIAL COUNSEL:**

- We represented **Matt & Ross Duffer**, creators of the **Netflix** hit TV series *Stranger Things*, who hired the firm two weeks before trial, to defend them against claims that they stole the ideas for the show from Charlie Kessler. Kessler alleged that he had met them at a party years before they launched the series and that he'd disclosed his ideas for a program that he claimed was "substantially similar" to the hit program. He sought one-third of everything the Duffer brothers had earned and would earn from the series. Three weeks before trial, the Court denied the Duffer brother's motion for summary judgment. Kessler's attorney told the media: "Now that the Judge has denied their motion for summary judgment, we can dispense with the nonsense promoted by the Duffers and Netflix that this lawsuit has no merit, and that they had 'proof' that they created the show. If the lawsuit had no merit, or if they actually had the 'proof' they created it, then their summary judgment would have won. They lost. These motions are very hard to fight and winning this Motion shows Mr. Kessler has a good case. We look forward to proving Mr. Kessler's case at trial." Shortly thereafter, the Duffer brothers hired Quinn Emanuel. But there would be no trial. A few days after we were hired, we deposed the plaintiff's liability expert and forced him to retract his prior opinions and agree that the Duffer brothers had, in fact, independently created *Stranger Things*. Plaintiff thereafter dismissed his case and issued a statement acknowledging that he had nothing to do with the program.
- We represented Defendants **Dan Rasure, TheShop.Build, LLC, and TheShop.Build San Fran, LLC** in a pro bono matter. Plaintiff TechShop, Inc. sued our clients for trademark infringement in the Northern District of California, alleging that the former name of their business, TechShop 2.0, and the current name, TheShop.Build infringed its TECHSHOP marks. Quinn Emanuel was retained after discovery closed to try the case. After a 7-day jury trial, the jury came back with a verdict that our clients infringed TechShop's marks, but awarded TechShop no damages.

- We represented **Pinterest** against Pintrips in the Northern District of California—taking over as lead counsel the Friday before trial started on Monday. The client was facing having its core trademarks cancelled or declared generic, an understandably devastating situation. Luckily, our team knew exactly what it was doing and successfully defended against Pintrips’s counterclaim and secured that important victory for the client.
- We were substituted in weeks before trial between **Express Scripts Inc.** and Anthem Inc. in S.D.N.Y. and wasted no time. We immediately brought several counterclaims against Anthem and ultimately obtained a victory for our client, Express Scripts.
- In ***Chabad v. Dawn Arnall***, we were substituted in as lead counsel **mid-trial**, but that did not stop of us from delivering results. In this case, Chabad claimed that Dawn Arnall’s late husband, billionaire philanthropist Roland Arnall, pledged \$18 million to Chabad before his passing. After a short bench trial, we successfully obtained a complete defense judgment for our client, **Dawn Arnall**.
- We were brought into a case by **Motorola Mobility** and **Time Warner Cable** against TiVo during expert discovery and less than three months before the start of trial. This patent case, based in the Eastern District of Texas, involved DVR technology and despite our late arrival to the game, we obtained a successful settlement for a fraction of the amount sought by TiVo during trial. Our trial strategy resulted in key victories in pre-trial motions that led to the successful settlement.
- We were brought in last minute by **Bio-Rad Laboratories, Inc.** in a whistle blower complaint by a former employee. Although everyone knew our client would be found liable, we successfully limited damages to less than the plaintiff’s final settlement demand, which the client considered a win.
- Our client, **AIG**, sued a competitor of its former subsidiary for trade secret misappropriation, breach of fiduciary duty, and unfair competition in Los Angeles Superior Court. AIG transitioned the case from **Morrison & Foerster** to us after two years of litigation. The case settled favorably months after our firm entered its appearance.
- **AIG** also brought us in last minute in a \$300 million coverage dispute with Sabre Inc. where Sabre was seeking indemnification for a \$200 million settlement with American Airlines, as well as attorneys’ fees and damages for slow-payment and bad-faith-denial claims. We were able to settle before trial for a favorable sum and the client was delighted.
- We were asked to replace **Gibson Dunn & Crutcher** to defend securities class actions and claims by over 60 individuals arising from employee accounting fraud at **Peregrine Systems, Inc.** We successfully disposed of 40 of the individual claims on the pleadings or on summary judgment (with the dismissals affirmed on appeal), successfully settled

the rest, obtained dismissal of the Rule 10b-5 claims alleged in the class actions, and successfully settled the remaining class action claims while that appeal was pending.

- Our client, **U.S. Bank**, brought us in last minute to represent them as Trustee in mortgage loan put-back cases pending in Minnesota after the Trustee had suffered a series of adverse rulings. We were able to persuade the Court to modify some of its prior rulings, providing a clear path for the Trustee's claims, which resulted in a successful settlement approved in a trustee instruction proceeding in Minnesota.
- We were asked to step in as lead trial counsel three weeks before trial to represent **Legacy Partners Sunset Lofts, LLC** against Fresh Bites, Inc. in Los Angeles Superior Court. We vigorously prepared and argued pre-trial motions and ultimately obtained a favorable settlement one week before trial. The client was ecstatic.
- We were hired in summer 2017 after the court ruled on summary judgment motions to take over as lead trial counsel for existing client, **Olaplex**, in a fraud, breach of contract, false advertising and ownership dispute related to the founding and launch of the company's first round of ground-breaking hair treatment products. We learned the case in a matter of weeks, handled all pretrial matters, and prepared the case for trial in Los Angeles Superior Court. The case settled on favorable terms the weekend before jury selection and opening statements.
- More than a week after trial began, after having no prior involvement in the case, we stepped in and assumed the role of lead trial counsel (**replacing Irell & Manella**) representing a Southern California developer of open-air "lifestyle" shopping centers against the nation's second largest mall developer. Our client had brought claims against the mall developer for interference with prospective business relations based on threats the mall developer allegedly made against a prominent nationwide restaurant chain to discourage the chain from becoming an anchor tenant in our client's new shopping center across the street from the super-regional mall owned by the defendants. Over the next handful of weeks, we conducted most of the witness examinations, the closing argument, and the punitive damages phase of the trial. The jury awarded our client the full amount of compensatory damages requested -- \$74 million, and an additional \$15 million in punitive damages, for a total award of \$89 million. We successfully partnered with the incumbent trial counsel in obtaining this result.
- **AIG** retained Quinn Emanuel 30 days before jury trial in the District of Connecticut in a large reinsurance dispute. We learned the case within weeks, fully prepared it for a jury trial, and settled it right after the jury was selected. Settlement was in excess of \$200 million. Opposing counsel commented that the case settled because of Quinn Emanuel's involvement.
- After being brought into the case as lead trial counsel a few months before trial, we obtained summary judgment of non-infringement on behalf of **Barnes & Noble** in a case involving allegations that Barnes & Noble's Nook eReader devices infringed two patents claiming methods of synchronizing data in multiple devices over a network.

- We were retained during trial to assume the role of lead counsel in a case in which a charity claimed that a wealthy benefactor who had previously donated more than \$4 million to the charity had pledged to donate \$18 million to underwrite a construction project before the benefactor died shortly after being diagnosed with cancer. After a multi-week bench trial, the court found that the charity had not proven the pledge by a preponderance of evidence and issued a decision in our client's favor.
- After a court trial spanning several months, we obtained a ruling for **Zurich Insurance Company** in San Francisco Superior Court's Complex Claims Department that will result in entry of judgment for Zurich on fraudulent transfer claims brought by 30 corporate plaintiffs that the plaintiffs valued at over \$14 billion. Zurich Insurance Company and several subsidiaries were sued for claims stemming from a recapitalization transaction of Home Insurance Company, which is now in liquidation. Plaintiffs asserted that Zurich and its affiliates received valuable assets from the Home for inadequate compensation and then took complete control of Home and its remaining assets following the transaction, all to the detriment of its policyholders. Zurich asserted statute of limitations and regulatory approval defenses, arguing that plaintiffs' claims were untimely and that all of Zurich's actions were approved by the insurance departments of several states. From the beginning of the case, we worked successfully with co-counsel from a large New York firm. Shortly before trial, Zurich chose our firm to be the lead trial counsel. The Court has issued an opinion finding that Zurich had performed all of its obligations under the agreements, that plaintiffs' fraudulent transfer claims are barred by the statute of limitations, and that the approval of multiple state insurance regulators stopped plaintiffs from bringing the claims.
- Brought in five months before trial to defend **Google's** AdSense advertising products against Function Media's \$600 million claim of infringement of three patents, we won a unanimous jury verdict of both non-infringement and invalidity in the Eastern District of Texas in Google's first patent trial.
- We were retained two months before trial to represent **AIG** in a large commercial dispute where our client previously had been unable to get a settlement offer from the other side. After a jury was selected, the case settled for more than \$200 million.
- We were hired a few months before trial to take over for another firm representing a **technology company**. Prior counsel's settlement attempts had failed, but we immediately made aggressive moves, including filing a successful motion for an expedited appeal, and serving a 30(b)(6) deposition notice on the adversary. The other side settled within five weeks—on terms better than ever previously offered.
- Less than a month before the hearing date, we were retained to conduct an arbitration of a slander claim asserted against business entities associated with **Dr. Henry T. Nicholas** by one of Dr. Nicholas' former assistants. The plaintiff was also a key witness in a pending federal criminal investigation involving Dr. Nicholas. After a two-week arbitration, we obtained a defense ruling rejecting plaintiff's contention that he was slandered by alleged comments characterizing a settlement demand as extortionate.

Through aggressive cross-examination, we discredited the plaintiff as a witness in the government's criminal investigation, setting the stage for dismissal of the criminal charges six months later.

- After years of previous litigation, we were retained to represent **Micron Technology** at trial, in partnership with co-counsel, in its long running battle against Rambus in a patent case arising out of Dynamic Random Access Memory (“DRAM”) technology. The U.S. District Court of Delaware trifurcated the trial into three phases—the “unclean hands” phase, the “patent” phase and the “conduct” phase. In the unclean hands phase, the Court, following a five-day bench trial, issued a written opinion finding that Rambus spoliated evidence and declared the patents in the suit unenforceable.
- We represented **two German nationals** who moved to Santa Barbara and sued media giant Bertelsmann AG and its former CEO. While working for Bertelsmann, these former executives had been the driving force behind the creation and development of AOL Europe, a joint venture between Bertelsmann and AOL. When Bertelsmann sold its interest in AOL Europe for \$6.75 billion, it refused to compensate plaintiffs. They asserted claims for breach of contract and breach of partnership agreement, among others. We were retained to try the case along with existing counsel about four months before trial. We obtained a **€200 million verdict**. It was the seventh largest jury verdict in the nation that year and the largest verdict that year for a non-corporate plaintiff.
- We represented **Kimberlite Corporation** and its **Chief Executive Officer** in a suit by Kimberlite's former President and Chief Operating Officer arising out of a transaction whereby Kimberlite was sold to its employees through an Employee Stock Ownership Program (“ESOP”). The plaintiff asserted numerous claims, including breach of employment contract, breach of partnership agreement, breach of fiduciary duty, fraud, wrongful termination, and breach of certain contractual obligations arising out of the ESOP transaction. We were substituted as counsel several months after the action commenced. We immediately asserted cross-claims against the plaintiff for breach of fiduciary duty and misappropriation of corporate assets, and proceeded to quickly obtain several tactical victories in connection with discovery disputes. After obtaining key admissions from plaintiff in discovery, we successfully moved for summary judgment on plaintiff's breach of fiduciary duty and partnership-related claims, significantly narrowing the scope of the case. The remaining claims were tried to a jury in Fresno, California in the spring of 2009. After winning most of the 23 motions in limine we filed on behalf of our clients, a team of Quinn Emanuel attorneys tried the case over the course of six weeks. We elicited devastating testimony from numerous witnesses on both direct and cross examination throughout the trial. At the beginning of the seventh week of trial, the plaintiff proposed to settle the case and our clients accepted.
- We represented **Union Bank** in a case involving charitable trust beneficiaries' claims the Bank mismanaged a trust during the Great Recession and thus caused an alleged \$20 million in damages, and we obtained a complete victory at trial and then on appeal. The charitable beneficiaries asserted the Bank failed to liquidate and thus protect the trust's assets pending distribution and then improperly delayed distributions. We persuaded

the trial court that the Bank had acted prudently and that the charitable beneficiaries' choices caused any "damages," and we successfully defended the victory on appeal.

- We represented a **printing company** in a case it brought against a former employee and his new employer alleging misappropriation of trade secrets, breaches of fiduciary duty and interference with economic advantage. We were substituted in as counsel several months before trial. After a month-long trial straddling the holidays, we won a jury verdict for \$5.7 million in compensatory damages and over \$8 million in punitive damages.
- We were brought in eight weeks before trial to defend a **Silicon Valley semiconductor company** against breach of contract claims in a trial in Delaware. We obtained a defense judgment before the plaintiff rested its case.
- We represented a **leading mutual fund client** in litigation against Citibank relating to its sale to our client of notes linked to Enron's credit. Less than six months after we replaced existing counsel, Citibank settled.
- We were retained by **Catalina Marketing Corporation** and its wholly owned subsidiary, Catalina Health Resource (collectively "Catalina") to take over as lead counsel in an action alleging infringement of U.S. Patent No. 6,240,394 ("the '394 patent") shortly before the Markman hearing. The '394 patent disclosed and claimed a novel method and computer system for generating targeted messages for pharmacy patients at the point of sale. Catalina alleged that LDM Group LLC's "Carepoint" product and related services infringed the '394 patent. The parties resolved the case informally pursuant to a confidential settlement agreement.
- We were retained one week prior to the commencement of a trial to represent **the founder of a major transportation company**, in a business defamation action against a former business partner who accused the founder of embezzling money from the shareholders. With just one week to learn the case, complete the defendant's deposition and prepare for trial, the jury returned a verdict in favor of our client, awarding compensatory and punitive damages.
- We were substituted in as trial and appellate counsel for **Motorola**, in a sanctions hearing and retrial of a massive trade secrets case in Florida State Circuit Court involving satellite vehicle tracking device technology, brought by the renowned plaintiff's lawyer, Willie Gary, on behalf of SPS Technologies. SPS sued Motorola in 2002 alleging that it had stolen its trade secrets when it rolled out more than a dozen products that allegedly incorporated SPS's technology. SPS sought at least \$10 billion in damages in the lawsuit. The case, which has been heavily followed by the media, originally went to trial in 2006 but ended in a mistrial after SPS alleged that Motorola and its prior trial counsel had violated the witness sequestration rule concerning its experts. Quinn Emanuel first represented Motorola at a mini-trial on a fee entitlement after sanctions had been awarded against Motorola. At that fee trial, the Gary Firm sought \$2 billion in fees but received a mere 22 million- a fraction of what the Gary Firm alleged it need to be made whole. The retrial of the trade secrets case was settled

on the eve of trial on terms favorable to Motorola, and as noted by AmLaw Litigation Daily, in an amount “nothing close to [the] \$10 billion” SPS was seeking.

- We were substituted in as counsel (nine days before arbitration) to represent one of Hollywood’s super agents, **Ed Limato**, against one of the industry’s most powerful agencies. Limato worked for the ICM agency for 30 years. After removing Limato as co-president of the agency, ICM and Limato began discussions about his departure. ICM insisted that as a result of various contract renewals he was under contract to remain with the agency until 2010. This would, in effect, side line him with a non-compete, and enable ICM to take his clients. We argued that because Limato’s contract dated back to the mid-90’s, it was bound by the California law known as the “seven year rule”, which states that anyone who renders extraordinary or unique services cannot be bound to a contract for more than seven years. The arbitrator ruled in our favor, finding that Limato was free to leave ICM because his contract renewals exceeded seven years.
- We represented **RealNetworks** as a defendant in an internet software patent case brought by Ethos Technologies in Boston . We were hired as trial counsel after the close of fact discovery. After a 20-day trial, the jury found seven of the ten claims asserted against RealNetworks invalid, and all ten asserted claims not infringed, defeating a damages claim of over \$200 million. Jury verdicts of invalidity in such cases are rare.
- We represented **AOL’s** subsidiary, **Tegic Communications**, in a patent suit against an infringing competitor. We were retained less than three months before the trial date, and after a three-week jury trial involving complex text input software technology, we defeated the attack on the validity of two Tegic patents and won a unanimous jury verdict of willful infringement and \$9 million in compensatory damages.
- We represented **IHOP** in a sexual harassment and wrongful discharge action. The plaintiff was an employee of an IHOP franchise and sued the franchise and the parent company for sexual harassment. On the eve of trial, the lawyer representing the defendants realized he had a conflict, as he could not represent both the franchise and the parent company. We subbed-in to represent the parent and argue that, even if franchise was liable, the parent company should not be liable under agency principles. The case went to trial and the jury returned a complete defense verdict.
- We represented **Fox Broadcasting Company** when an individual plaintiff claimed the network had misappropriated the concept of a television program she alleges she worked on in conjunction with the network. After summary judgment was denied, we were retained to replace the network’s prior counsel. We filed a renewed summary adjudication motion which was granted to eliminate several claims. At trial, and after opening statements and jury selection, the non-suit was granted in favor of our client. A verdict of \$52 million was returned against the co-defendant producers and distributors. It was affirmed on appeal.
- We represented **Zurich Insurance** in a case brought by the former President of one of Zurich’s subsidiaries. We took over two weeks before the start of the jury trial. We

conducted the voir dire, cross examined the plaintiff and did the closing argument. We obtained a complete defense verdict within two hours after closing and the trial judge awarded Zurich a substantial amount on its counterclaim.

- We represented **Space Systems Loral** in an age, race and national-origin discrimination case in the Northern District of California. We were brought in less than one month before the trial. The case was tried to a jury for over two weeks, and we received a complete defense verdict after 20 minutes of deliberation.
- We represented **Fidelity and Casualty of NY**, a subsidiary of CNA, in a \$135 million coverage case that had been pending for 17 years. We were hired one week before trial, and the matter settled one month into trial.
- We represented **Hanes Investment Realty, Inc.** and its president, real estate developers, in a suit against a large civil engineering firm for creating construction delays that adversely affected the building of a large residential housing development. We entered the case on behalf of the plaintiffs two months prior to trial, and after a three-week trial obtained a jury verdict finding breach of contract and fraud, and awarding over \$4 million in compensatory damages plus a finding of punitive damages. The case settled shortly after the jury returned its verdict for the full judgment, plus interest and all attorneys fees and costs incurred by plaintiffs.
- We represented **Packard-Hughes Interconnect Company** in an age discrimination, harassment, and retaliation case. We were hired just before the close of fact discovery. The plaintiff, a 20-year employee of PHIC, alleged that she was demoted after she turned 50 and replaced with a much younger employee, and retaliated against in numerous ways for giving testimony against her former supervisor in a sexual harassment case. After a four week jury trial, the jury returned a complete defense verdict.
- We represented **Tufenkian Carpets** in a copyright infringement action. We were retained less than a month before trial to re-try a case that had previously ended in a mistrial. A federal judge issued an opinion in which he accepted every one of the arguments we asserted – even one that the judge at the earlier trial had rejected.
- We represented **Coastal Delivery Corporation** in the re-trial of a breach of contract claim concerning a multi-year Customs Service container examination agreement. We were brought in a week before trial, obtained a six-week continuance, won the jury trial and obtained a judgment of over \$3 million for our client which was paid in full without any appeal.
- We were retained, on the eve of trial, as counsel to **Terayon Communications Systems** and its various officers and directors to assume the defense of shareholder class and derivative actions. We successfully resolved matters after summary judgment argument and expert discovery.



- We were retained two months before trial by **Medo Industries** and **Pennzoil-Quaker State** in a two-patent patent infringement action related to various after-market automobile products. We obtained summary judgment on all claims asserted.
- On behalf of various **CNA insurance companies**, we were retained six months before trial in a contentious insurance bad faith action that had been pending for seven years. We worked closely with CNA's prior counsel to master the enormous factual record, complete discovery, and develop the story that would lead to a trial victory. Three months after we were hired, the case settled for a small fraction of plaintiff's previous demands.

**OTHER INSTANCES WHERE WE HAVE SUCCESSFULLY WORKED WITH OTHER FIRMS AS CO-COUNSEL:**

- We served as court-appointed co-lead plaintiffs' counsel in *Four In One Company, Inc., et al. v. S.K. Foods, L.P., Ingomar Packing Company and Los Gatos Tomato Products*, an alleged class action concerning price fixing in the market for processed tomato products. We achieved a ground-breaking settlement in bankruptcy court that ensures a settlement class certified by the bankruptcy court will now be able to maximize its recovery from debtor SK Foods. We brought to bear not only our antitrust expertise, but also our firm's deep experience and expertise in bankruptcy-related litigation.
- We were appointed by the United States District Court for the Northern District of Ohio to serve as court-appointed co-lead counsel for direct purchaser plaintiffs in *In re Flexible Polyurethane Foam Antitrust Litigation*. In July 2011, the firm, along with co-lead counsel, argued against and defeated all of the defendants' motions to dismiss, and the case has now moved to the discovery phase.
- We were court-appointed co-lead plaintiffs' counsel in *Universal Delaware v. Comdata Corporation*, an alleged class action concerning monopolization in the markets for truck fleet credit cards used at truck stops. In January 2011, we argued against and defeated the motion to dismiss by key defendant Ceridian Corporation.
- Alongside co-counsel, we represented plaintiffs in the pending *In re Egg Products Antitrust Litigation* in the Eastern District of Pennsylvania and helped secure a \$25 million settlement from defendant Moark Corporation/Land O' Lakes. We filed one of the original complaints concerning price fixing in the egg market. Our complaint identified and developed a critical aspect of the conspiracy – namely, a program by the major egg producers, through their trade organizations the United Egg Producers and the United States Egg Marketers, to export eggs to lower-priced foreign markets as a means to reduce egg supply in the United States and thereby raise egg prices here. We were recently selected by co-lead counsel to present the principal argument in opposition to the defendants' motions to dismiss.
- One of our partners with co-counsel represented **The DVD Forum** in winning dismissal of antitrust litigation with respect to its standard-setting activities.

- We have been retained with co-counsel to represent Georgia Pacific in *Kleen Products et al. v. Packaging Corp. of America et al.*, an alleged class action claiming a conspiracy to restrict supply, and thereby raise prices, by the nation's leading manufacturers of containerboard used in boxes and other packaging.
- Working with co-counsel, we obtained a complete jury verdict for **The Dow Chemical Company** ("Dow") in a patent infringement against Nova Chemicals Corp. and Nova Chemicals Inc. ("Nova"). Dow's patents-in-suit relate to an important new kind of polyethylene used in a wide variety of applications from food packaging to heavy duty shopping sacks. Dow's invention allows manufacturers to fabricate stronger, thinner plastic films with less polyethylene, thereby requiring the consumption of less resources and energy to manufacture the plastics and also benefiting the environment through less plastic waste. The jury found that Dow's two patents-in-suit were valid and infringed by more than fifty Nova polymer products. The jury verdict awarded damages of \$61.7 million, including \$57.4 million in lost profits and \$4.3 million in royalties. After inclusion of prejudgment interest, the total damages award was \$76 million. The Federal Circuit affirmed Dow's victory in district court on all grounds, and the Supreme Court denied Nova's petition for writ of certiorari.
- Working with co-counsel in Canada, we represented **MHR Fund Management**, its founder Dr. Mark Rachesky and its affiliated funds relating to Carl Icahn's 2010 hostile bid for Lions Gate Entertainment Corp. MHR is a longstanding significant investor in Lions Gate, and Dr. Rachesky is a member of Lions Gate's board. Icahn brought actions in British Columbia, where he alleged shareholder "oppression," and New York, where he alleged tortious interference with a standstill agreement between Icahn and the company. In both actions, Icahn sought to rescind transactions that closed immediately following the expiration of the standstill, in which the company exchanged certain convertible notes held by Kornitzer Capital Management, which in turn sold the new notes to MHR for approximately \$105 million. MHR immediately converted the new notes for approximately \$16 million shares. Following a four day trial, the Supreme Court of British Columbia rejected Icahn's bid to rescind the transactions or sterilize MHR's votes. Two months later, just days before Lions Gate's annual general meeting at which Icahn was running a proxy contest, the New York Supreme Court denied Icahn's request for a preliminary injunction to bar Rachesky's fund, MHR, from voting \$16 million shares of Lions Gate stock at the annual meeting. Following that ruling, Icahn did not close his then-outstanding tender offer, his slate of directors was defeated in the proxy fight and Dr. Rachesky and the management directors were re-elected to the Board.
- Working with co-counsel, we obtained a settlement of approximately \$7 billion for the Estate of **Washington Mutual** in litigation with JPMorgan Chase.
- Working with co-counsel, we represented **Roche** in a patent infringement case brought by Stanford University for infringement of Stanford HIV patents relating to viral load and AIDS therapy decisions. Roche initially asserted that it owned the patents because the patents arose from a collaboration between Stanford and Roche's predecessor,

Cetus Corporation. The Court denied this defense. After extensive litigation and claim construction, Roche moved for—and the Court granted—summary judgment that the Stanford patents asserted against Roche were invalid because they were obvious in light of the prior art. The lead prior art reference was a joint publication between Stanford and Cetus in the *Journal of Infectious Diseases*. On appeal, the Federal Circuit agreed with our defense that Roche was a co-owner of the patents in suit due to the collaboration. With the support of the Solicitor General’s office, Stanford petitioned the United States Supreme Court to reverse the Federal Circuit and allow Stanford to void its prior contracts based on the existence of federal funding for research at Stanford. The Supreme Court agreed with Roche and ruled 7-2 that Stanford must abide by its contracts and that the Bayh Dole Act—the statute governing federal research funding—does not give automatic ownership of patents to universities.

- Working with co-counsel, we represented **Infinity World**, a subsidiary of Dubai World, in its dispute against MGM MIRAGE over the funding of the \$8.5 billion CityCenter project in Las Vegas. A month after we filed a complaint, MGM and CityCenter’s lenders capitulated to Dubai World’s demands, agreeing, among other things, to fund the full \$1.8 billion they had promised under CityCenter’s senior credit facility.
- Working with co-counsel, we obtained a U.S. Supreme Court victory for Japanese ocean carrier “**K**” Line in *Kawasaki Kisen Kaisha Ltd. v. Regal-Beloit Corp.*, which held in a unanimous portion of the opinion that ocean carriers are not subject to regulation under the Carmack Act when they make intermodal shipments that travel both by sea and by land.
- With co-counsel, we represented **Samsung** in two price-fixing class actions, brought by direct and indirect purchasers of NAND flash memory, in the Northern District of California; although classes had been certified in similar cases in the same district, we successfully defeated class certification motions in both actions, causing the direct purchaser representative to agree to voluntary dismissal. The Ninth Circuit recently denied the indirect purchaser plaintiffs petition to appeal.
- We represented a **global telecommunications company** and the world’s largest manufacturer of mobile cellular handsets, in probably the largest intellectual property litigation in the world. The firm was brought in to act as lead trial counsel in all US cases and was coordinating counsel with respect to the others. The plaintiff, based in California, develops and sells chip sets which are the “brains” of mobile handsets. In a matter before the ITC, The plaintiff sought an exclusionary order that would have enjoined our client from importing its handsets into the United States. If successful, the complaint would have cost our client billions of dollars. We obtained an order denying the plaintiff’s request. The judge denied the plaintiff’s request for an exclusionary order under Section 337 and found that all three asserted patents were not infringed and that one of the patents was invalid under *KSR Int’l Co. v. Teleflex Inc.*, handing our client a complete defense victory, and allowing our client to continue to import hundreds of millions of handsets into the United States.

- With co-counsel, we represented **IBM** in the enforcement of a portfolio of patents reading on the emulation of mainframe computers. The case settled on terms very favorable to IBM.
- With co-counsel, we obtained a summary judgment of invalidity on behalf of clients **IAC/InterActiveCorp, LendingTree, and ServiceMagic**. They had been sued in New Jersey for infringement of a business method patent assigned to a New Jersey corporation, owned by a New Jersey resident (who also happened to be the named inventor), and represented by a New Jersey IP firm. The claim for damages was \$100 million. The District Court granted our motion for summary judgment that the asserted claims were invalid for obviousness. If the patent had survived, it could be asserted against any and all internet buyer-vendor matching sites.
- Serving as co-counsel, we obtained dismissal on the pleadings for a **leading mutual fund client** and two of its executives of federal class action claims seeking treble and punitive damages under RICO. The claims maintained that investments by mutual funds in the publicly traded stock of allegedly illegal gambling businesses amounted to RICO violations; we were able to persuade the federal district court to dismiss the action with prejudice on an initial motion to dismiss.
- We worked with co-counsel in defending a **former director of Peregrine Systems, Inc.** against claims by putative classes of federal plaintiffs, two state-court lawsuits by groups of investors, and claims by the Peregrine Litigation Trust, which was seeking in excess of \$2 billion from Peregrine's directors, officers, and others. (A dozen insiders have already either pleaded guilty or been indicted in connection with these claims.) We obtained a complete dismissal, with prejudice in the largest active case in this series of litigation. The action had been pending for more than three years, and we never let plaintiffs progress beyond the pleading stage.
- We represented **Defendant Stryker Corporation** as co-counsel in a patent infringement jury trial in the United States District Court for the Northern District of California in which we obtained a defense jury verdict of invalidity of patents relating to surgical bone cement kits.
- Acting with co-counsel, we obtained summary judgment on behalf of American **Home Assurance Co.** against a plaintiff seeking to recover in excess of \$30 million for remediation work allegedly performed for of the New Jersey Meadowlands. The New Jersey Chancery Court (Bergen County) ruled that the bond in issue was not a payment bond insuring the payments to contractors after the original landowner, which had contracted with the plaintiff for the work to be performed, failed to make payment. Instead, the bond was for the sole benefit of the entity overseeing the remediation work, which had conveyed the land in question to the owner. The court held that the owner, now bankrupt, was solely responsible for payment of the plaintiff-contractor.
- We are acting as co-lead counsel for plaintiffs in a class action antitrust case against Comdata Corporation, the largest provider of payment cards for truck fleets to purchase fuel and other services in connection with the long-haul transportation of freight.

Plaintiffs are independent truck stops that compete with national chains in selling fuel to trucking companies. The lawsuit is brought under Sections 1 and 2 of the Sherman Act and challenges exclusionary conduct by Comdata that enhances and perpetuates its monopoly position.

- We obtained a substantial settlement for an **Enron oil trading subsidiary** in a civil RICO case centering around the misreporting of its profits. The subsidiary had reported hundreds of millions of dollars in profits over a three-year period, but there was no profit and, in fact, losses of hundreds of millions of dollars. A sophisticated international forensic investigation found that the scheme had been going on for over three years. Among the techniques used were sham contracts with third parties to “roll over” and postpone their trading losses, making it appear that they were profitable. The defendants in the case had set up off-shore companies that they controlled and used to conduct other similar trades and to siphon off millions of dollars for themselves. Besides a suit brought in the Southern District of New York, additional lawsuits were filed in the High Court in London and the tax and corporate havens of Jersey and Guernsey to obtain *ex parte* “Anton Pillar” civil search warrants in England, as well as *ex parte* “Mareva” injunctions to freeze the defendants’ assets. These orders were very effective in locating assets and documents used to trace where the stolen funds had gone. The case also involved discovery in those countries and in Japan and required coordination not only with forensic auditors, but with expert co-counsel in the U.K., the Channel Islands, and Japan.
- We represented **Invensys**, a British corporation, and its Dutch subsidiary, **Baan Development**, in a variety of disputes relating to the sale of software and the theft of the source code underlying its software. In Sweden, a dispute alleging breach of contract and breach of warranty in connection with the delivery of a complex software system was being arbitrated. In that dispute we worked closely with Swedish co-counsel. Because there was a counterclaim against KCI, a Finnish company, that could not be brought in Sweden, we brought it in the Northern District of California. This ultimately resulted in settlement at no cost for our client vis-a-vis KCI.
- We were retained by the board of an English publishing company when trademark and fraud claims filed by a U.S. equity research firm proved intractable. With our client’s regular IP counsel, we conducted depositions to support a successful multi-faceted motion gutting all but a single claim, and moved in limine to strike all three of the plaintiff’s experts. The case settled shortly thereafter with a global co-existence agreement and no payment by our client.
- We won a jury verdict for global manufacturer of transportation equipment as co-counsel in federal trial concerning misappropriation of client’s trade secrets. The jury’s award, which represented the full amount sought, is one of the largest ever reported in a New York trade secrets case.
- We represented **easyJet Airlines** (the largest discount airlines in Europe) and **BulletProof Software** in a trade secret and copyright suit brought by Navitaire, a subsidiary of Accenture. Navitaire claimed that easyJet and BulletProof made an

unauthorized copy of Navitaire's reservation program and thereby committed trade secret misappropriation and copyright infringement. This lawsuit was the parallel suit to one that was litigated in the UK; in the UK action, easyJet (represented by our UK co-counsel) prevailed in the copyright suit (and was awarded substantial fees). The UK decision on the copyright claim has made substantial new law in the UK regarding the protectability of user interfaces and inputs. The US suit was an effort by Navitaire to see if the US courts would give Navitaire a right and remedy where the UK court had found none.

- We represented a group of **Russian businessmen and their entities** in a shareholders dispute in Cypriot courts regarding the sale of a Russian drilling business worth US\$ 1 billion. While we were lead counsel in the matter, we joined the Moscow office of a UK magic circle law firm for separate representation of certain individuals and entities within the client group.
- We represented a **Russian subsidiary of a major German resale group** before Russian courts in a significant contractual dispute regarding office premises in Moscow. We were engaged as an oversight counsel to strengthen the legal team (which included litigators from the Moscow offices of two leading US law firms).
- We represented a **Russian businessman** in a shareholders dispute with his business partners regarding control over and management of a substantial oil refinery and petrochemical business in Russia (worth over US\$ 500 million). The dispute involved proceedings in Russia, Guernsey and BVI. We were lead counsel in the project and teamed up with the London office of a white shoe US law firm (as UK litigation counsel) and the Moscow and London offices of another US law firm (as transactional counsel). This proved to be efficient.
- We served as trial counsel for **Monolithic Power Systems** 6 weeks before trial in the *Linear Technology v. Monolithic Power Systems* case in Delaware. Latham was defense counsel for MPS. We associated into the case in light of a conflict Latham had on one of the two asserted claims. We co-tried the case (we handled the breach of license defense, Latham handled the patent infringement defense) and won our half of the case on a JMOL, and ultimately the client was awarded over \$2 MM on fees on the portion of the case on which we prevailed. (Incidentally, the client asked us to do both opening statement and closing argument even though Latham had been in the case for over two years.)
- We represented **Shell Oil** and were asked to sub in 6 weeks before trial to try a two patent cases filed by Ashland Oil relating to certain after-market automobile petroleum products. We presented and argued a dispositive motion in limine, that was essentially a summary judgment motion of invalidity. After a nine hour hearing before Judge Cormac Carney, the court invalidated both asserted patents.
- We were brought into a case by a **client** sued by a large sporting goods company in October 2014. The sporting goods company was represented by a large New York based law firm. The client did not feel that their current trial counsel was respected by

the other side or the court, so they brought us in. We substituted in, cooperated with former counsel, and were able to quickly work out a settlement after taking a couple of depositions and filing a summary judgment motion. The settlement was several million dollars less than the client had been expecting to pay in settlement.