Jenner & Block’s Trademark, Advertising and Unfair Competition practice helps brand owners confront the full spectrum of trademark issues they encounter in the marketplace, including trademark and trade dress infringement, false advertising, dilution, cybersquatting and anti-piracy cases. Our lawyers have handled all aspects of federal court trademark litigation including preliminary injunction proceedings, *ex parte* seizures, bench and jury trials, as well as *inter partes* proceedings before the Trademark Trial and Appeal Board (TTAB). Our practice has a direct focus on litigation, as Jenner & Block litigators have unparalleled experience in handling all aspects of pre-trial and trial practice and have achieved significant recognition for our preeminence and ability to help clients meet their business and legal objectives.

**The National Law Journal**

*The National Law Journal* named Jenner & Block to its 2016 “Intellectual Property Hot List,” one of 15 firms in the United States that “set the bar in intellectual property law.” This was the second consecutive year the firm received the honor.

**Chambers USA**
*Award for Excellence in Media & Entertainment — 2014, 2012*

*Chambers USA* honored the firm’s Content, Media & Entertainment (CME) Practice with its 2014 “Award for Excellence” for its “outstanding reputation in the media and entertainment space, offering clients in the motion picture, television and music industries exceptional representation in precedent-setting litigation.” This marked the second time in three years that the CME Practice was recognized by *Chambers USA* as the #1 media and entertainment practice in the country.

**BTI Litigation Outlook**
*Powerhouse in Complex Commercial Litigation — 2015*

The *BTI Litigation Outlook 2015*, an in-depth analysis of the litigation market, ranked Jenner & Block as a “Powerhouse in Complex Commercial Litigation,” one of the top three law firms that clients see as best in that area. The firm was also ranked as a “BTI Awesome Opponent,” one of the 10 most feared firms in litigation. BTI’s analysis draws on direct client feedback from 300 independent, in-depth interviews with corporate counsel at the world’s largest companies.

**The American Lawyer**

The *Am Law A-List* recognizes the 20 most elite law firms across the country for outstanding performance in the areas of revenue generation, pro bono commitment, associate satisfaction and diversity representation. The firm’s selection in 2016 was the sixth time it was named to the A-List since the ranking was established.

**The National Law Journal**
*Appellate Hot List — 2015*

For the seventh consecutive year, Jenner & Block was recognized by *The National Law Journal* in the publication’s “Appellate Hot List” of elite firms “with outstanding achievements before the US Supreme Court, federal circuit courts of appeal and state courts of last resort.”
TRADEMARK, ADVERTISING, UNFAIR COMPETITION AND INTERNET LITIGATION

Jenner & Block lawyers regularly litigate trademark and trade dress infringement matters on behalf of a broad array of clients in diverse industries including apparel, consumer products, media and entertainment, and sporting goods, among many others. Our trademark experience includes all aspects of the litigation process from pre-filing strategy and investigations, preliminary injunctions, and dispositive motions, to bench and jury trials as well as appeals. We also have represented a number of companies with advertising litigation, including federal district court litigation, proceedings in the National Advertising Division of the Better Business Bureau and the National Advertising Review Board, private arbitrations, responses to state attorney general inquiries and network challenges.

Jenner & Block’s trademark practice operates at the forefront of issues of importance to brand and content owners. We are also a nationwide leader in helping businesses safeguard their intellectual property on the Internet and in other new media. We understand the challenges companies face in protecting their trademarks in an ever-changing technology environment.

Because of this experience, a broad array of entertainment, manufacturing, consumer goods and publishing companies, among others, regularly call upon the firm for representation and counsel in a variety of areas, including:

— Secondary liability against online service providers and intermediaries
— Keyword advertising disputes
— Cybersquatting, domain name seizures and other domain name disputes
— Site blocking orders
— 3D printing ecosystems

Our lawyers have been at the forefront of issues of importance to brand owners as they seek to protect their rights over the Internet and in new media.
REPRESENTATIVE MATTERS

Fortres Grand Corp. v. Warner Bros. Entertainment: Secured a victory for Warner Bros. Entertainment when the court granted a motion to dismiss a trademark infringement complaint related to the blockbuster movie *The Dark Knight Rises*. At issue was Fortres Grand Corp.’s allegation that the movie’s references to a fictional software program called “Clean Slate” infringed Fortres Grand’s real computer security software of the same name. The dismissal was affirmed by the Seventh Circuit.

Arista Records v. Vita Tkach et al.: Obtained ex parte domain name seizure order, TRO and preliminary injunction against counterfeit online music service. In an ancillary proceeding, the firm secured a significant ruling from the Court holding that the preliminary injunction order applied to a third party Internet intermediary that provided DNS and web optimization services to the enjoined counterfeit service.

Mechanical Plastics Corp. v. W.W. Grainger, Inc.: Successfully defended W.W. Grainger against trademark, trade dress, false advertising and copyright infringement claims filed by Mechanical Plastics Corp (MPC), which had accused Grainger of infringing its rights by incorporating certain trademarks, text and copyrighted images in Grainger’s well-known hardware catalog in order to compare MPC’s products to a line of in-house products manufactured and sold by Grainger.

The S. Hekemian Group v. The Related Companies, L.P.: Represented defendant, a real estate developer, in a suit over use of the phrase “The Next Great Neighborhood,” defeating a motion for preliminary injunction on the grounds of fair use and failure to show likelihood of confusion resulting in voluntary dismissal of the lawsuit.

Louis Vuitton Mallatier v. Warner Bros. Entertainment: Won the dismissal of a trademark infringement suit by luxury handbag manufacturer Louis Vuitton, which had sued Warner Bros. Entertainment over the moviemaker’s use of an alleged knockoff of a Louis Vuitton travel bag in a scene in the movie *The Hangover Part II*, in which a character identifies the bag as a “Lew-is Vuitton.”

Warner Bros. Entertainment v. The Global Asylum: Prevented a low-budget movie originally called *Age of the Hobbits* from being distributed under that name, arguing that the title, title design and packaging unlawfully tried to cash in on the goodwill and popularity of Warner Bros. Entertainment’s blockbuster film *The Hobbit: An Unexpected Journey*. The court issued a preliminary injunction, barring the advertising, selling or distributing of any film titled *Age of the Hobbits* or using any mark that is similar to *The Hobbit* or any of the titles in *The Hobbit* trilogy. The Ninth Circuit affirmed the injunction.

Sears Brands, LLC v. Sears Hometown and Outlet Stores, Inc.: Defended Sears Hometown and Outlet Stores, Inc. in a series of TTAB Opposition Proceedings concerning the filing of applications for various house marks for retail store services.

Comedy Playground, LLC v. NBCUniversal Media, LLC: Represented broadcast network in a trademark infringement claim based on use of the name “NBC Playground” for an online contest involving the creation of a scripted television program.

Monster Energy Company v. West Coast Chill, Inc.: Represented a producer and distributor of energy drinks against trademark and trade dress infringement claims.

Hansen Beverage Co. v. KO Beverages LLC: Defended KO Beverages in a lawsuit based on allegations that the defendant’s “Knockout” energy drink infringed the trademarks and trade dress of “Monster” energy drinks.
Universal City Studios v. Global Asylum: Represented Universal Studios in prosecuting trademark, unfair competition, and copyright claims against a film studio that produced and distributed, in the United States and internationally, a "mockbuster" DVD that copied the title, title design and key art for Universal's 2012 motion picture Battleship. Following litigation in the United Kingdom and in California, the defendant agreed to change the title, title design and artwork to a non-infringing format for all distribution of the DVD worldwide.

Fifty Shades Limited v. Smash Pictures: Represented NBCUniversal and author E L James in prosecuting claims for trademark and copyright infringement and obtaining a permanent injunction against an adult film company based on its distribution, before the release of Universal's film, of an unauthorized adaptation of the bestselling Fifty Shades of Grey novels.

Fleshwound Films v. Rush Sports & Events International: Represented one of Australia's largest live-action sports promoters in an international arbitration and state court proceedings concerning trademark licensing rights, successfully opposing a preliminary injunction motion and ultimately securing a favorable settlement.

Bally Shoe of Switzerland v. Bally Manufacturing Corporation: Defended Bally Manufacturing Corporation against allegations of trademark infringement filed by Bally Shoe of Switzerland.

St. Charles Manufacturing Co. v. St. Charles Furniture Corp.: Represented defendant in action involving trademark rights to the term "St. Charles."

Simmons Browder Gianaris Angelides and Barnerd, LLC v. The Simmons Firm, ALC: Prevailed in a trademark opposition that was tried to decision before the TTAB regarding the name of a professional services firm.

MGM Pictures, Inc. v. Mark Brown, Beauty Shop LLC et al.: Represented producer Mark Brown and related companies in trademark, copyright and unfair competition claims relating to a motion picture release. Successfully settled after preliminary injunction and appeal to the Ninth Circuit.

 Represented American Association of Electrodiagnostic Medicine in successful defense of litigation brought by medical device manufacturer charging that AAEM's publication of review of literature on the manufacturer's product disparaged the product in violation of the Lanham Act and state injurious falsehood laws. The federal district court granted AAEM's motion for summary judgment.

Prime Healthcare Anaheim v. AHMC Anaheim Regional Medical Center: Defended hospital owner and prevailed in a bench trial in a trade name lawsuit filed by a rival hospital owner concerning priority of use and state law rights in the business name “Anaheim Regional Medical Center.”

AOL Advertising.com v. Advertise.com: Represented AOL in a case involving claims for trademark infringement and unfair competition regarding use of AOL’s ADVERTISING.COM and AD.COM marks for an online display advertising network. The case involved cutting-edge issues regarding the scope of trademark protection for domain names.

Huffingtonpost.com v. Huffington Post Union of Bloggers: Prevailed in UDRP proceeding to recover the domain name www.huffingtonpostunionofbloggers.org. The three-member panel ruled that the defendant's use of the domain name was intended to capitalize on the popularity of the Huffington Post, rejected the defendant's primary argument that it was a labor organization devoted to the criticism of Plaintiff and ordered the transfer of the domain name to the Huffington Post.
ADVERTISING, MARKETING AND PROMOTIONS

Our nationally recognized advertising team helps media companies and major brands produce and distribute content, structure and negotiate marketing deals, and navigate the ever-changing legal landscapes that affect how their advertising, marketing and promotional campaigns are activated across all media. We represent major film studios, broadcast and cable television networks, online and mobile video distribution channels, retailers, major consumer brands and their advertising, marketing and promotions agencies in all aspects of sports marketing, entertainment marketing and interactive marketing, as well as in innovative branded entertainment and e-commerce initiatives.

Our transactional advertising practice includes structuring and negotiating media planning and buying agreements and league-level and team-level sponsorship agreements, preparing endorsement agreements with athletes, influencers and celebrities, implementing commercial co-venture campaigns, preparing and negotiating joint promotion alliances for tent-pole motion picture releases, e-sports telecasts, virtual reality productions and other innovative content initiatives, and analyzing and licensing copyright, trademark, publicity and other intellectual property rights associated with such projects.

We also assist with structuring and activating social media campaigns, branded entertainment initiatives and customer loyalty programs; licensing and protecting intellectual property rights; reviewing and clearing advertising copy for use in online and offline media; and negotiating creative agency engagement agreements. In addition, we advise clients on compliance with state and federal regulations governing online and mobile gaming, fantasy sports initiatives and some of the highest profile sweepstakes promotions and competitions in the country.

Because every advertising campaign and content distribution project involves some level of consumer privacy, as well as the occasional employee privacy issue, we work closely with our Privacy and Information Governance team to navigate the US and non-US privacy and data protection laws and regulations that regulate the collection, use, sharing and protection of such data.

Our team specializes in:

- Negotiating sports marketing agreements and structuring the corresponding campaigns for a high-profile “who’s who” list of major consumer brands across every professional sport (NFL, NBA, MLB, NHL and MLS) in the United States;
- Negotiating endorsement agreements on behalf of major retailers and consumer brands with athletes, social media influencers and A-list celebrities from the sports, fashion, music and entertainment industries;
- Negotiating entertainment marketing agreements and structuring the corresponding campaigns for major brands and several of the major motion picture studios in connection with tent-pole film releases;
- Structuring online, mobile and branded entertainment initiatives for several of the major motion picture studios, major consumer brands, major retailers, and various broadcast and cable television networks;
- Navigating the state, federal and international privacy laws implicated by the foregoing types of initiatives and campaigns;
- Preparing creative agency and media planning and buying agreements and the statements of work corresponding to complex campaigns;
— Structuring national commercial co-venture campaigns where the purchase of a product also benefits a non-profit or charitable organization;
— Advising clients on compliance with state and federal regulations governing online and mobile gaming, fantasy sports and some of the highest profile sweepstakes promotions and competitions in the country; and
— Resolving disputes that arise between competitors in connection with national advertising through negotiation, litigation and National Advertising Division (NAD) proceedings.

TRADE SECRETS AND RESTRICTIVE COVENANTS

Jenner & Block’s Trade Secrets and Restrictive Covenants practice is at the forefront of trade secret law. We are highly experienced at securing victories for our clients, as plaintiffs and defendants, both in and out of the courtroom. Our interdisciplinary team comprises members of the firm’s Litigation, Intellectual Property and Labor and Employment practices. This coordinated approach results in a team that is highly collaborative and excels at providing proactive counseling to avoid litigation and successfully and efficiently resolving litigation if it does arise. Our attorneys have litigated trade secret cases throughout the country, in both state and federal courts, from temporary restraining orders to trial and appeals. With a proliferation of cases aimed at protecting or attacking valuable intellectual property, trade secrets are more important than ever.

Most recently, in two trade secrets cases representing clients as plaintiffs, Jenner & Block obtained a $940 million jury verdict in Wisconsin federal court and a $130 million settlement on the first day of trial in Washington state court. The firm has also successfully defended its clients against trade secret litigation, resulting in pre-trial dismissals and complete defense verdicts, and provided counseling to help clients avoid disputes in the first instance. Additionally, our attorneys have an invaluable understanding of federal security requirements, and have security clearances that allow them to work on the most highly confidential matters involving secrets that spill over from private trade secrets into state secrets.

We stand ready to protect our clients’ valuable trade secrets, to guard against any missteps during the hiring process and to defend against allegations of wrongdoing if they arise. Additionally, we counsel clients in how to protect their trade secrets when employees depart.

CLEARANCE / OPINIONS / COUNSELING

To help our clients avoid litigation in the first instance, we regularly assist in-house personnel and counsel in pre-litigation counseling, crafting advertising claims for media, print and direct mail consistent with legal requirements pursuant to Federal and state regulations, the Lanham Act, and other industry guides such as those issued by the Council of Better Business Bureaus or the major television networks.

Our lawyers also have extensive experience counseling clients with respect to the adoption, filing, use and registration of trademarks, including clearance opinions, in the United States and worldwide. In addition, our lawyers have experience conducting due diligence of intellectual property assets in connection with mergers, acquisitions, divestitures, secured financing, licensing and IPOs. Our lawyers have advised clients in transactions in a wide range of industries including information technologies, entertainment, chemicals, pharmaceuticals and manufacturing.