

LITIGATION MATTERS

Our litigation attorneys have successfully handled intellectual property disputes throughout the federal and state court systems, including patent, trademark, and copyright infringement, trade secret misappropriation, and the validity, enforceability, and ownership of intellectual property rights.

Noteworthy cases include:

Paper Machinery Corporation v. Lueders, et al.

John Fredrickson represented two former employees of PMC and their start-up company (Infinite Motion Control) against claims of trade secret misappropriation, breach of fiduciary duty and breach of contract. John Fredrickson obtained summary judgment dismissing the trade secret and fiduciary duty claims, leading to a settlement that freed the defendants to develop and market their new cup inspection and testing machine.

Mid-West Management, Inc. v. Capstar Radio Operating Company

John Fredrickson defended WXXM-FM, a Clear Channel Communications radio station, against claims of trademark infringement and unfair competition over its use of the phrase "Madison's Progressive Talk." The court denied the plaintiff's motion for a preliminary injunction, and the claims were eventually dismissed.

Shock-Tek, LLC v. Trek Bicycle Corp.

Jim Boyle and John Fredrickson successfully fended off a motion for preliminary injunction and ultimately obtained summary judgment on behalf of their long-time client, Trek Bicycle Corporation. The plaintiff had filed a case in federal court in Detroit alleging patent infringement, trade dress infringement, and false representation under the Lanham Act, unfair competition in violation of the Michigan Consumer Protection Act, and common law claims of unfair competition and unjust enrichment. The United States Court of Appeals for the Federal Circuit recently affirmed the district court's summary judgment in favor of Trek.

Pavia v. Edison Parking

As lead counsel for Edison Parking, Adam Brookman played a key role in the landmark decision on the Federal Copyright Visual Artists Rights Act handed down by the United States Federal District Court for the Southern District of New York. After the Federal Court dismissed all but one claim against Edison Parking, the parties negotiated an amicable resolution of the dispute that saw the parties collaborate in a public reception and reintroduction of the work of art in question.

Linton Legacy Homes, LLC v. Hardin

John Fredrickson obtained summary judgment on both copyright infringement liability and damages in favor of a homebuilder against a couple and their builder. The couple had visited the plaintiff's model home and obtained a brochure and quote, but then had new plans prepared based on the plaintiff's floor plan.

Strong Capital Management, Inc. v. Smith

Adam Brookman successfully obtained judgment against two spammers, acting on behalf of several organizations offering pornographic services, who had relayed spam through Strong's email server such that the emergent messages bore a return address that included Strong's trademark. The case marked the first time that a court found liability under the Telephone Consumer Protection Act for the sending of spam.

Lawbase, Inc. v. Software Services of Wisconsin, Inc.

The plaintiff sued Software Services, a custom software developer, after the two had ended their business relationship. The plaintiff alleged copyright infringement and an assortment of state law claims, including fraud, breach of contract, breach of fiduciary duty, conversion, misappropriation of trade secrets and unjust enrichment, and sought both injunctive relief and damages in excess of \$400,000. John Fredrickson obtained summary judgment dismissing all of the state law claims, and the remaining copyright infringement claims settled on the first day of trial on terms that were very favorable to Software Services.

Schwarz Pharma Inc. and Cima Labs, Inc. v. Breckenridge Pharmaceutical, Inc. and Ultimate Formulations, Inc. d/b/a Best Formulations

The plaintiffs in this pharmaceutical case, who claimed to have developed an innovative, orally disintegrating tablet used for the treatment of irritable bowel syndrome, filed a lawsuit in federal court in Milwaukee alleging that the defendants had illegally conspired to develop and market a knock-off drug. The complaint alleged a myriad of claims, including patent infringement, copyright infringement, trade dress infringement, unfair competition and false advertising in violation of the Lanham Act, fraudulent representation and fraudulent drug advertising in violation of Wisconsin Statutes, common law unfair competition and misappropriation, and also sought a declaratory judgment that the defendants' drug product was being unlawfully substituted by pharmacists for the plaintiffs' drug in violation of FDA regulations. Jim Boyle obtained a complete dismissal of the defendant manufacturer, Best Formulations.

Mafcote Industries, Inc. v. Fonda

The plaintiff sued the Fonda Group for trade dress infringement for the use of the color blue in packaging of certain paper products. After significant discovery, Adam Brookman was able to raise so many questions about the competency of the plaintiff's survey expert and his resultant survey that the plaintiff agreed to dismiss the case against Fonda.

Anderson v. Saber

Jim Boyle obtained a grant of summary judgment in favor of his client, a manufacturer of snowmobile studs, holding that the plaintiff's patent was invalid and unenforceable. The U.S. Court of Appeals for the Federal Circuit affirmed.

Budget Cinema v. Watertower Associates

In an architectural works case, John Fredrickson successfully defended Watertower Associates at a preliminary injunction hearing against a claim of copyright infringement. Following an appeal to the United States Court of Appeals in Chicago, Watertower recovered over \$100,000 in attorney's fees from the plaintiff.

Jackrel v. Paragon Sporting Goods

Jackrel accused a number of suppliers who sold breathable waterproof gloves of patent infringement. Arguing that the gloves sold by his client did not infringe the patent, Adam Brookman successfully obtained summary judgment dismissing the case against his client without liability.

Foamation v. Scofield Souvenir

Scofield Souvenir asked for advice about its ability to enter the market for "cheeseheads." For years, the yellow, wedge-shaped foam hats commonly seen at Packer games and other Wisconsin sporting events had been manufactured exclusively by Milwaukee-based Foamation. Our attorneys advised that there were no legal barriers to making and selling similar cheese-shaped foam hats and stood by that advice, successfully defending Scofield from Foamation's unfounded claims of trademark and copyright infringement. The court dismissed all of Foamation's claims, and our attorneys in fact obtained a substantial settlement for Scofield.

Don Belman Homes, Inc. v. Gary Belman Design Builders Corp.

John Fredrickson represented the defendants in a dispute between two brothers, in which Don Belman Homes, Inc. sought, among other things, to prohibit Gary Belman from using the Belman family name in connection with a home construction business. Vigorous defense caused Don Belman Homes, Inc. to voluntarily drop its claims for copyright infringement of architectural plans, breach of fiduciary duty, and misappropriation of trade secrets, and the court refused to enjoin the use of the family name. The case settled before trial on terms very favorable to our client.

J.T. Eaton, Inc. v. Atlantic Paste & Glue, Inc.

J.T. Eaton asserted claims of infringement against a number of manufacturers of competing mouse traps. Adam Brookman and his partner achieved a jury verdict of willful patent infringement against all of the defendants. The verdict permitted J.T. Eaton to ultimately settle its claims on very favorable terms that, among other things, permitted the company to obtain exclusivity in the marketplace for the duration of the patent term.

NFL Properties v. ProStyle

In a trademark infringement action, John Fredrickson represented the defendant, ProStyle, Inc., which was accused of selling sportswear that infringed Green Bay Packer trademarks. The court granted several pretrial decisions in the defendants' favor, and the case was ultimately tried to a jury. Although the verdict was not favorable, the case settled while on appeal.

Kelley v. Serco

Kelley Company, a Milwaukee manufacturer of dock loading equipment and related products, sued a major competitor for patent infringement. John Fredrickson was part of the trial team that obtained a \$10.3 million judgment in favor of Kelley after a jury trial in Milwaukee. The judgment was summarily affirmed on appeal.

Husco International v. Finite Hone

Jim Boyle successfully defended Finite Hone in a Waukesha County Circuit Court trial on claims of misappropriation of trade secrets and breach of a confidentiality agreement.

Our attorneys have represented clients in disputes throughout the country, including California, Colorado, Florida, Illinois, Indiana, Iowa, Kansas, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, Texas, Washington, and Wisconsin.