



# Copyright Law

## Overview

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We understand the importance of copyright law as a tool for safeguarding our clients' creative endeavors on the one hand and avoiding infringement liability on the other. Our attorneys have handled a diverse array of copyright matters involving jewelry designs, photographs, architectural works, software code, air filter designs, sculptures, glassware, flatware, and many other original works of authorship.

Our copyright attorneys possess an in-depth knowledge of the often complex and nuanced intricacies surrounding copyright law. We have advised our clients on issues ranging from registration, ownership, and transfer of copyright-protected works to fair use, infringement evaluation, infringement, and secondary liability.

When tasked with securing protection for our clients' original works, we carefully evaluate their designs and content to identify copyrightable subject matter, as well as verify ownership. We then guide our clients through the process of applying for and obtaining federal copyright registrations to better protect their works and position them for future enforcement efforts.

In enforcement matters, we work closely with our clients to craft an effective plan of action, including investigating acts of infringement, implementing appropriate enforcement mechanisms, negotiating settlement agreements, and obtaining favorable judgments. Our attorneys have acted as copyright litigation counsel for both plaintiffs and defendants in federal court.

We are also well prepared to provide counsel on the strategic use of copyright law to address infringing activity online, including compliance with the Digital Millennium Copyright Act (DMCA) and its notice and takedown provisions.

### AREAS OF EMPHASIS

- Evaluating unauthorized use and copying of original works
- Federal registration of original works
- Copyright enforcement strategy
- Fair use
- Acquisition, licensing, and assignment of copyright-protected works
- DMCA takedowns

### Experience

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- Defend numerous retailers, designers, and manufacturers in fabric copyright infringement actions

- Obtained complete defense verdict in a two-week jury trial as lead trial counsel for a major pharmaceutical company in a case before the U.S. District Court for the Western District of Missouri involving claims of copyright infringement, breach of contract, the Missouri Computer Tampering Act, and civil conspiracy
- Obtained summary judgment in the Western District of Missouri in a copyright infringement lawsuit brought by client's former vendor alleging that an online system developed by one of client's vendors infringed its copyrights and seeking damages potentially in the hundreds of millions of dollars from client and other users of the platform
- Obtained reversal of a preliminary injunction for an IT maintenance provider in a bet-the-company case in which the U.S. Court of Appeals for the Federal Circuit ruled in client's favor on copyright, DMCA, and trade secret claims, approving client's use of diagnostic software for computer maintenance
- Lead trial counsel in five matters venued in California, New York, and Massachusetts; obtained dismissals after trial or summary judgment motions in all five matters
- Lead trial counsel in a software licensing dispute venued in federal court in New Orleans, Louisiana; obtained a favorable jury verdict that was affirmed on appeal
- Lead trial counsel in a software licensing dispute with a federal governmental agency
- Represented a jewelry designer in a copyright and trade dress infringement claim against a competitor; obtained judgment for \$1,182,326.01 and permanent injunction
- Represented a jewelry designer in a copyright and trade dress infringement claim against a competitor; obtained judgment for \$650,000 and permanent injunction
- Represented a software company in an anti-piracy program directed to end-users infringing copyrights of software companies
- Represented a charity asserting claims of copyright infringement; matter settled favorably for client with infringer agreeing to cease using the written materials
- Won summary judgment for a major consumer products company in the Middle District of Tennessee involving claims that a country music song used in a commercial for client's product infringed plaintiffs' copyright
- Successfully settled a case for a home furnishings designer brought to enforce the designer's copyright ownership rights in design against its competitor