

**Practice Areas**

- Litigation
- Intellectual Property
- Entertainment, Media and Communications
- Digital Media

**Education**

- J.D., Fordham University School of Law, Honors, 1993
- B.A., University of Pennsylvania, cum laude, 1990

**Bar Admissions**

- New York (1994)
- U.S. Circuit Court of Appeals for the Ninth Circuit (1998)
- U.S. District Courts for the Southern and Eastern Districts of New York (1994)

**Ilene S. Farkas**

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Ilene Farkas joined Pryor Cashman in 1993 and is a seasoned commercial litigator. She has represented clients in a wide variety of commercial litigation and arbitration. Her areas of concentration include intellectual property disputes in music, film and theater, music publishing, licensing and other entertainment-related disputes. Her versatile practice has also included successfully representing clients in securities, antitrust, real estate litigation and arbitrations, as well as representing one of the four major record companies in the world in an investigation by the N.Y. State Attorney General's office.

Representative matters in which Ilene has been involved include:

- *Maxwood Music Ltd. v. Malakian* (U.S. District Court for the Southern District of N.Y.): After a seven-day bench trial, obtained complete dismissal of co-authorship claims brought against client songwriters Daron Malakian and Serj Tankian, two members of the band *System of a Down*, based on a Grammy award winning song
- *Chafir v. Carey* (U.S. District Court for the Southern District of N.Y.): Successfully defended Mariah Carey, Jermaine Dupri, Johnta Austin, Manuel Seal and music publishing entities in music copyright litigation involving song on Mariah Carey album *The Emancipation of Mimi*; obtained dismissal on summary judgment of all claims.
- *271 Mulberry Street v. R.C. Dolner, Inc.* (JAMS – N.Y.): Successfully represented developer of a luxury condominium building in extensive arbitration proceedings brought against general contractor relating to defective construction of the project
- *CBS Inc. v. Stern* (N.Y. Supreme Court): Represented famous radio personality Howard Stern, his agent and other defendants in a multimillion dollar contract litigation brought by CBS after Stern signed with Sirius satellite radio; the matter was settled prior to discovery or trial
- *Attorney General Investigation of Major Record Labels*: Represented one of the four major record companies in the world throughout the investigation and settlement of the N.Y. State Attorney General's investigation of radio promotional activities and alleged "payola" practices

- *Scarlet Moon v. Sony Music Entertainment* (California Superior Court): Represented music publishing companies in defense and settlement of a class action lawsuit, arising out of the terms of the defendants' prior settlement with MP3.com of their copyright infringement claims based on the MP3.com service
- *JMS Entertainment LLC v. Paula Abdul and Shut Up And Dance Productions Inc.* (N.Y. Supreme Court): Represented Paula Abdul in an action against her by a DVD producer claiming she had breached an agreement to participate in the making of a video about how to be a star
- *Alakazia v. Simmons* (U.S. District Court for the Southern District of N.Y.): Won a motion to dismiss on behalf of defendants Kimora Lee Simmons, Russell Simmons, Phat Fashions and others dismissing federal RICO and Lanham Act claims brought by a former designer of a "Baby Phat" line of clothing
- *Smith v. New Line*, 2004 U.S. Dist LEXIS 18382 (S.D. N.Y. 2004): Successfully defeated a claim that the motion picture *The Cell*, starring Jennifer Lopez and Vincent D'Onofrio, infringed plaintiff's copyright in a screenplay he allegedly created
- *James v. Universal* (U.S. District Court for the Southern District of N.Y.): Won summary judgment dismissing complaint brought by two songwriters for misappropriation and unjust enrichment, based on proof that the album at issue had never been commercially released or otherwise exploited in the U.S. by the defendants, establishing that court lacked subject matter jurisdiction
- *Marvel Enterprises v. Universal Studios* (AAA – N.Y.): In this AAA arbitration, Marvel sought over \$50 million in damages from our client Universal Studios based upon Universal's alleged breach of a contract pursuant to which it was obligated to include Marvel elements in marketing exposure relating to Universal's two theme parks in Orlando, Fla.; the panel denied Marvel's claims in their entirety
- *Mantello v. Hall* (U.S. District Court for the Southern District of Fla.): Represented Tony award winning stage director Joe Mantello in a landmark theater case which established the copyrightability of stage directions
- *Sagittarius, 112 v. Evergreen* (N.Y. Supreme Court): Represented plaintiffs for breach of contract and breach of covenant of good faith and fair dealing based on claims of wrongful termination of a broadcasting license for The Howard Stern Show in Chicago; a settlement was reached immediately prior to a jury trial
- *Zemel v. Philips International Realty* (U.S. District Court for the Southern District of N.Y.): Successfully defeated a motion for class certification based on the inadequacy of the class representative
- *Tibbett & Britten Group v. Safeway* (JAMS – San Francisco): Successfully represented the claimant, formerly one of the world's largest providers of logistics services, in its \$25 million claim for services provided and expenses incurred in providing services to Safeway during a lengthy labor strike in several Western states

- *Young Talent v. Dante Smith a/k/a Mos Def* (AAA – N.Y.): Successfully represented a personal manager in a management contract dispute against an actor who failed to pay commissions to the manager; obtained an award for the full amount of damages sought
- *ABKCO Music & Record, Inc. v. Stellar Records*, (S.D.N.Y. 1995), *aff'd*, 96 F.3d 60 (2d Cir. 1996): Won a preliminary injunction holding that copyright in a sound recording was infringed by a manufacturer of a karaoke (CD&G) disc which had only obtained compulsory license
- *CBS Inc. v. Liederman*, 866 F. Supp. 763 (S.D.N.Y. 1994), *aff'd*, 44 F.3d 174 (2d Cir. 1995): Defeated preliminary injunction motion in a trademark infringement action brought by the network against a restaurant owner seeking to use name *Television City*; affirmed on appeal
- *Henson Co. v. Cinar Films*, (U.S. District Court for the Southern District of N.Y.): Successfully defended Canadian production company against claims by plaintiff that puppets used in the television show *Wimzie's House* infringed on the Muppets
- *Monster Communications Inc. v. Turner Broadcasting System*, 935 F. Supp. 490 (S.D.N.Y. 1996): Defeated preliminary injunction motion bought by proprietors of documentary film *When We Were Kings* about the historic Ali-Foreman championship fight in Zaire, against cable broadcast of Turner film *Muhammad Ali: The Whole Story*, which allegedly contained some of plaintiff's copyrighted film clips, based on a fair use defense.

### Publications

- Author, *Article 75 and 78 Proceedings*, PLI (1994)

### Professional Affiliations

- The Copyright Society of the U.S.A.

### News

- Pryor Cashman Obtains Summary Judgment For Clients Nelly Furtado and EMI Music Dismissing Music Copyright Claims In Ruling Of First Impression
- Pryor Cashman Obtains Dismissal Of Copyright Infringement Case Involving Kanye West's "Stronger"
- Pryor Cashman Hosts Women Lawyers of Interlaw Annual Meeting
- Pryor Cashman Successfully Moves To Dismiss Copyright Infringement Claims Alleged Against Music Publisher For Nelly Furtado
- Pryor Cashman Wins Trial for System of a Down Members Over Grammy-Award Winning Song
- Pryor Cashman Client, The Wiyos, to join Bob Dylan/Willie Nelson/John Mellencamp 2009 Summer Tour for 27 Dates
- "Urinetown" Lawsuit Settles
- Pryor Cashman Wins Summary Judgment Dismissing Copyright Infringement Claims Relating To Mariah Carey Hit Song