

Philip R. Hoffman: Case Descriptions

- ***Allen v. Beaver Music* (AAA – N.Y.):** Instituted AAA arbitration to recapture copyright to one of composer-client's best-known songs. At issue was construction of form industry contract from 1930s. Located only living drafter of agreement and, arguing before panel of industry experts, was successful in recovering not only the copyright but also damages on behalf of the client.
- ***Barrett v. Polygram* (U.S. District Court for the District of N.J.):** Obtained summary dismissal of claims brought by composer that Polygram's licensing of song for use in videocassette of movie *Porky's* exceeded rights granted by composer.
- ***Barris-Fraser Enters. v. Goodson-Todman Enters.*, 1998 U.S. Dist. LEXIS 146 (S.D.N.Y. 1998):** Successfully defended production company against declaratory judgment claim that plaintiff's game show did not infringe upon defendant's game show and obtained judgment that plaintiff's show constituted an infringement.
- ***Blashford-Snell v. Polygram* (U.S. District Court for the District of N.J.):** Obtained summary judgment dismissing plaintiff-explorer's privacy claims based upon use of plaintiff's likeness on back cover of Moody Blues album *A Question of Balance*.
- ***Bloom and Atkinson v. Hearst* (U.S. District Court for the Northern District of Texas) (unreported decision), *aff'd*, 33 F.3d 518 (5th Cir. 1994):** Successfully defended claims brought by authors of book *Evidence of Love* that Hearst's sale of videocassette of television movie *Killing in a Small Town* which was derived from the book exceeded rights granted by authors. After a full trial, the District Court dismissed all of plaintiffs' claims. Result was upheld on appeal in the U.S. Court of Appeals for the Fifth Circuit.
- ***Bonds Jewelry v. Stonestar Limited* (N.Y. Supreme Court and Appellate Division, 1st Dep't):** Successfully defended breach of contract claim involving diamonds owned by Iranian royalty and obtained multimillion dollar judgment for defendant on its counterclaims. Handled appeal brought by plaintiff and were successful in having lower court victory upheld.
- ***Brite Media Group LLC v. BVM Enterprises* (U.S. District Court for the Southern District of N.Y.):** Representing the buyer of an advertising business who had been defrauded, brought a federal securities fraud action against sellers. Ability to master and organize hundreds of thousands of e-mails in a short period of time allowed us to document the fraud and led to multimillion dollar settlement after only one deposition and less than one year after the litigation had been filed.

- ***Burnett and Allison v. Warner Bros. Pictures, Inc.*, 113 A.D.2d 710, 493 N.Y.S.2d 326 (1st Dep't 1985), aff'd, 67 N.Y.2d 912, 501 N.Y.S.2d 815 (1986):** Successfully defended claims brought by authors of play *Everybody Goes to Ricks* (on which movie *Casablanca* was based) that use of the characters in Warner Bros.' television show *Casablanca* exceeded rights granted by authors. Our motion for summary judgment was granted and we successfully defeated plaintiffs' appeals, both in the N.Y. Appellate Division and the Court of Appeals.
- ***Cousins v. EMI, Jay-Z, Kanye West* (U.S. District Court for the Northern District of Ill.):** Successfully defended copyright infringement claims brought by plaintiff musician and obtained dismissal of his claims with prejudice prior to discovery.
- ***Donahue v. Artisan Entertainment*, 2002 U.S. Dist. LEXIS 5930 (S.D.N.Y. 2002):** Went to trial and successfully represented the three actors from *The Blair Witch Project* in right of privacy and unfair competition litigation brought against Artisan Entertainment in connection with the "sequel" *Book of Shadows* and the use of the actors' images without their consent. Matter was settled after presentation of plaintiffs' case to the jury.
- ***Finn v. Digital Mobil* (AAA – N.Y.):** Successfully prosecuted claims for severance payments and other benefits on behalf of corporate officers against their employer.
- ***Gale v. Stallone* (U.S. District Court for the Southern District of New York, 1996):** Successfully defended Sylvester Stallone against claims for breach of contract and fraud arising out of painting he did as a young man and obtained dismissal without damages of all claims after full trial.
- ***Goldstein v. Westenberg* (N.Y. Supreme Court):** Successfully prosecuted breach of contract action involving sale of California Closets location and obtained significant judgment for client after full trial.
- ***Hannafin v. Universal Pictures Corp.* (U.S. District Court for the Southern District of N.Y.):** Obtained summary dismissal of right of privacy claim brought against Universal by actor whose image was shown in motion picture *Junior*.
- ***Interactive Holdings Corp. v. Paxson Communications Inc.* (S.D.N.Y. 2000) and *National Casualty Co. v. Paxson*, 304 A.D.2d 391, 757 N.Y.S.2d 549 (1st Dep't 2003):** In 1999, Interactive instituted a copyright and unfair competition litigation against Paxson seeking several million dollars in damages. At that time, Paxson was represented by a large nationwide law firm. After several months of extremely costly litigation, Paxson, whose insurance company, National, had refused to indemnify it, replaced its counsel with our firm. Within one month of being retained, we settled the litigation for \$50,000 and then pursued the insurance company in state court for reimbursement of all amounts paid by Paxson, both for legal fees and settlement. Although the N.Y. Supreme Court granted the insurance company summary judgment, we appealed and the decision was unanimously reversed by the Appellate Division in 2003. Paxson ultimately recovered over \$500,000, which represented all legal fees paid by it in both the underlying and insurance litigation, the \$50,000 it had paid to settle the underlying case, and interest on both amounts.
- ***Koal Industries v. Asland, S.A.*, 808 F. Supp. 1143 (S.D.N.Y. 1992):** Successfully prosecuted securities and common law fraud and RICO claims against multinational company and achieved global settlement of all disputes between the parties in multiple litigations and venues.
- ***Mallory Factor v. Kings Road Entertainment* (AAA – N.Y.):** Successfully defended production company against claims for agency commissions.

- ***Manna v. CSFB (JAMS – N.Y.):*** Represented investment banker in JAMS arbitration commenced against employer for failure to compensate him in accordance with employment agreement. Defeated summary judgment motion brought by financial institution and successfully settled case without need for trial.
- ***Mar-Lyon USA v. Enor Corp. (U.S. District Court for the Southern District of N.Y.):*** Successfully prosecuted breach of contract claim on behalf of world famous hockey player Mark Messier relating to use of his image on trading cards.
- ***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 a specified amount of marketing exposure relating to Universal's two theme parks in Orlando, Fla. After 10 days of hearings and the introduction of hundreds of thousands of documents and other materials, including videotapes prepared especially for the hearings, the panel denied Marvel's claims in their entirety.
- ***McAndrews & Forbes v. Drexel Burnham Lambert (N.Y. Supreme Court):*** Successfully obtained an order of attachment against defendant's assets.
- ***Pannonia Farms Inc. v. USA Cable, 2004 U.S. Dist. LEXIS 23015 (S.D.N.Y. 2004), aff'd, 426 F.3d 650 (2d Cir. 2005):*** Obtained summary judgment for USA Cable in case involving television motion picture *A Case of Evil* and ownership of rights to fictional characters Sherlock Holmes and Dr. Watson. Handled the appeal brought by plaintiff and were successful in having lower court victory upheld. After affirmance, trial court awarded our client over \$100,000 in attorneys' fees and an additional \$25,000 sanctions against plaintiff's counsel.
- ***Spectrum International v. Joyce International, 273 A.D.2d 84, 709 N.Y.S.2d 815 (1st Dep't 2000):*** Successfully defended multimillion dollar contract claim brought against its client and obtained summary judgment on statute of limitations grounds. Victory upheld on appeal.
- ***Tepper v. Woody Fraser Enterprises, (N.Y. Supreme Court):*** Obtained summary dismissal of right of privacy claim brought by actor whose image was shown on television program.
- ***Tibbett & Britten Group v. Safeway (JAMS – San Francisco):*** In this JAMS arbitration, our client, Tibbett and Britten Group, formerly one of the world's largest providers of logistics services, sought \$25 million for services provided and expenses incurred in providing services to Safeway during a lengthy labor strike in several Western states. After a six-week trial during which we put on our client's case through the introduction of over 1,000 exhibits, a dozen witnesses and two key videotapes about the strike and the operation of the warehouse – created especially for the case – the matter was successfully settled in our client's favor.
- ***Triton Sports v. Roller Hockey International (U.S. District Court for the Southern District of N.Y.):*** Successfully prosecuted fraud and franchise violations case against new sports league and obtained refund of all fees paid by our client to league.
- ***Whitman v. CIBC Oppenheimer (NASD – N.Y.):*** In this NASD arbitration, an investor asserted fraud claims and sought \$10 million in damages from a brokerage house and a broker. We represented the broker and, through a four-day cross examination of the investor, demonstrated that no fraud had occurred. All claims against the investment banking firm and the broker were dismissed.

- ***Zink v. Mark Goodson Productions* (N.Y. Supreme Court) (unreported decision), *aff'd*, 261 A.D.2d 105, 689 N.Y.S.2d 87 (1st Dep't 1999)**: Obtained summary judgment on behalf of its client, resulting in dismissal of multimillion dollar tortious interference claims asserted against it relating to game show host. Also handled the appeal brought by plaintiff and were successful in having lower court victory upheld.