

Appeals: Case Descriptions

- *Beverage Marketing USA, Inc. v. South Beach Beverage Corp.*, 36 Fed. Appx. 12 (2d Cir. 2002): After defeating an earlier motion for a preliminary injunction, we won a motion for summary judgment dismissing trade dress, trademark dilution and copyright claims brought by the owner/manufacturer of Arizona Iced Tea beverages against our client, the owner/manufacturer of the SoBe line of beverages. The result was upheld on an appeal brought by plaintiffs and opposed by Pryor Cashman in the U.S. Court of Appeals for the Second Circuit.
- *Bloom and Atkinson v. Hearst*, 33 F.3d 518 (5th Cir. 1994): We successfully defended claims brought by authors of the book *Evidence of Love* that Hearst's sale of a videocassette of its television movie *Killing in a Small Town*, exceeded the rights granted by the authors. After a full trial, the District Court dismissed all of the plaintiffs' claims. The result was upheld on an appeal brought by the plaintiffs and opposed by Pryor Cashman in the U.S. Court of Appeals for the Fifth Circuit.
- *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): We successfully defended claims brought by the authors of the play *Everybody Goes to Ricks* (on which the movie *Casablanca* was based) that use of the characters in Warner Bros.' television show *Casablanca* exceeded the rights granted by the authors. Pryor Cashman's motion for summary judgment was granted and we successfully defeated plaintiffs' appeals, both in the N.Y. Appellate Division and the Court of Appeals.
- *Campbell v. Rogers & Wells*, 218 A.D.2d 576, 631 N.Y.S.2d 6 (1st Dep't 1995): Pryor Cashman, on behalf of one of its individual clients, prosecuted legal malpractice claims against a major international law firm. In the first trial, after the jury had deadlocked for one week, the trial judge, who had previously denied our motion for a mistrial, dismissed the plaintiff's case. On appeal to the N.Y. Appellate Division, Pryor Cashman managed not only to get the case reinstated but to have the judge removed and replaced with a different judge.
- *Davis v. Ross*, 754 F.2d 80 (2d Cir. 1985): We successfully prosecuted defamation claims brought by a former employee against an international celebrity. After the trial court granted summary judgment dismissing our client's claim, we appealed to the U.S. Court of Appeals for the Second Circuit, obtained a reversal and our client's case was reinstated and set down for trial. We obtained a favorable settlement for our client on the eve of trial.
- *Greenfield v. Philles Records Inc.*, 98 N.Y.2d 562, 750 N.Y.S.2d 565 (2002): We obtained a landmark contract and intellectual property law ruling on behalf of record producer Phil Spector and other defendants against royalty claims by the former group The Ronettes. In a precedent-setting opinion, Pryor Cashman achieved an extraordinary result for commercial entities doing business in New York. The state's highest court unanimously reversed a lower court's award that significantly impaired the rights of owners of property and adopted the rule advocated by Pryor Cashman, ensuring broad rights of exploitation for property owners. The court below had found that an owner of intellectual property did not have the right to exploit its property for any purpose not specifically authorized. On appeal, we argued that a party obtaining ownership of property through a contract has the absolute and unrestricted right to use that property in any way it chooses, subject only to express contractual limitations on such use. The N.Y. Court of Appeals agreed, placing the burden on a grantor to expressly re-serve all rights of exploitation not being granted and ruling that the parties' agreement need not list all uses in which the grantee was permitted to engage. The Court also adopted our argument that a party is entitled only to

compensation for uses of property for which an agreement expressly provides compensation and that no compensation is due for uses that are not specifically compensable by the agreement. The result obtained by Pryor Cashman reversed a line of decisions holding that an owner of property could not exploit its property in any manner not specifically authorized by the agreement transferring ownership and that a transferring party had the right to compensation for any uses of the property not specifically authorized in the agreement.

- *Katz Park Ave. Corp. v. Jagger* (N.Y.S. Appellate Division, 1st Dep't): Obtained reversal of trial court order that which had found that Bianca Jagger had the right under rent guidelines to renew her lease on Park Avenue apartment and obtained summary judgment on behalf of our client, the landlord, that Jagger should be evicted because apartment was not her primary residence.
- *National Casualty Co. v. Paxson*, 304 A.D.2d 391, 757 N.Y.S.2d 549 (1st Dep't 2003): Our client, Paxson, was sued by its insurance company, which sought to deny Paxson coverage for copyright claims that had been asserted against Paxson in another litigation. The lower court granted the insurer's motion for summary judgment and Paxson appealed. In the N.Y. Appellate Division, we were successful in not only overturning the grant of summary judgment to the insurer, but we also obtained summary judgment on behalf of Paxson. Our client recovered every dollar paid by it for counsel fees in both litigations and the amount it had paid to settle the copyright litigation, all with interest.
- *Pannonia Farms Inc. v. USA Cable*, 426 F.3d 650 (2d Cir. 2005): We obtained affirmance of the U.S. District Court decision granting USA Cable summary judgment in a case involving the television motion picture *A Case of Evil* and ownership of the rights to the fictional characters Sherlock Holmes and Dr. Watson.
- *Seale v. Gramercy Pictures*, 156 F.3d 1225 (3d Cir. 1997): After a full trial, Pryor Cashman obtained the dismissal of claims for false light invasion of privacy, right of publicity and Lanham Act violations brought by the former chairman of the Black Panther Party against the producers of the motion picture *Panther*. We handled the appeal brought by the plaintiff and were successful in having our trial court victory upheld.
- *Spectrum International v. Joyce International*, 273 A.D.2d 84, 709 N.Y.S.2d 815 (1st Dep't 2000): We successfully defended a multimillion dollar contract claim brought against our client and obtained summary judgment on statute of limitations grounds. When plaintiff appealed, Pryor Cashman briefed and argued the appeal, and the dismissal was upheld by the N.Y. Appellate Division.
- *Zink v. Mark Goodson Productions*, 261 A.D.2d 105, 689 N.Y.S.2d 87 (1st Dep't 1999): We obtained summary judgment on behalf of our client, resulting in dismissal of multimillion dollar tortious interference claims asserted against it relating to a game show host. We also handled the appeal brought by the plaintiff and were successful in having our lower court victory upheld.