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Intellectual Property | Litigation | Corporate

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Anthony L. Fletcher

Practice Areas

Intellectual Property Litigation
 Trademark Litigation
 Trademarks
 Licensing

Education

New York office
 212 641-2291
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 Princeton University A.B. Politics 1957 *cum laude*
 Harvard Law School J.D. 1962

Professional experience

Tony Fletcher is Senior Counsel in Fish & Richardson P.C.'s New York office. Mr. Fletcher specializes in trademark litigation, counseling and prosecution, with special emphasis on trade dress and trademark survey matters. He began his trademark work in 1966, and has practiced trademark law and such related fields as copyright, false advertising and right of publicity virtually exclusively since 1971. Prior law firms are Simpson Thacher & Bartlett (1962-71), Conboy, Hewitt, O'Brien & Boardman (1971-1986) and Hunton & Williams (1986-1997), all in New York.

Trademark litigation experience

FEDERAL COURT LITIGATION

Appellate

Boston Prof. Hockey Ass'n. v. Dallas Cap and Emblem - 510 F.2d 1004 (CA5 1975) Established that sale of embroidered cloth patches depicting hockey team logos infringed the marks registered or used for hockey services, creating the judicial cornerstone upon which professional sports licensing is built.

Boston Prof. Hockey Ass'n. v. Dallas Cap and Emblem - 597 F.2d 71 (CA5 1979) Established that damages for trademark infringement may be calculated on the basis of the market value of lost licensing fees if the mark had been licensed to the infringer, and sustained an award of doubled damages.

Miller Brewing Co. v. G. Heileman Brewing - 561 F.2d 75 (CA7 1977) Unable to sustain preliminary injunction obtained restraining use of **LIGHT** for beer, because "light" was generic. A subsequent preliminary injunction restraining another brewer from using LITE was reversed on grounds of collateral estoppel in *Miller Brewing Co. v. Falstaff Brewing Co.*, 655 F.2d 5 (CA 1 1981).

Imperial Tobacco v. Philip Morris - 899 F.2d 1575 (CAFC 1990) Sustained the Trademark Trial and Appeal Board's cancellation (on summary judgment) of the registration of a **JPS [John Player Special]** tobacco trademark for failure to use.

Trial and Summary Judgment



Atlanta

Austin

Boston

Dallas

Delaware

New York

San Diego

Silicon Valley

Twin Cities

Washington, D.C.

Philip Morris v. R. J. Reynolds - 188 USPQ 289 (SDNY 1975) Sole trial counsel in a 2-week trial on behalf of Philip Morris' **MARLBORO Lights** cigarettes, which ultimately were held not infringed by Reynolds' marketing of **WINSTON Lights** cigarettes.

Surf Line Hawaii v. Ahakuelo - 13 USPQ2d 1975 (DHI 1989) Successfully restrained further distribution of **HAWAIIAN JAM** T-shirts on behalf of the owner of **JAMS** for shorts and other garments, and obtained a finding "jams" was not generic.

Four Seasons Hotels v. Koury Corp. - 776 F.Supp. 240 (EDNC 1991) Succeeded in canceling a state registration of **FOUR SEASONS** for hotel services by the long-time user of **HOLIDAY INN FOUR SEASONS**, and placed limits upon the innkeeper's continued use of **FOUR SEASONS**.

MasterCard International, Inc. v. Nader 2000 Primary Committee, Inc. - 70 USPQ2d 1046 (S.D.N.Y. 2004), which determined that a political campaign advertisement by a presidential candidate was a parody, not an infringement, of MasterCard's famous "Priceless" advertising campaign.

Preliminary injunction

Miller Brewing Co. v. Carling O'Keefe - 452 F.Supp. 429 (WDNY 1978) Enjoined continued advertising on Buffalo television of **HIGH LITE** beer sold only in Canada (infringement of Miller's **HIGH LIFE**).

Tavaro v. Jolson - 591 F Supp 846 (SDNY 1984) Permanently enjoined use of another's sewing machine mark and certain false advertising, and preliminarily enjoined use of **PRIMA VERA** as a probable infringement of **PRIMULA**.

Philip Morris v. Star Tobacco - 879 F. Supp. 379 (SDNY 1995) Preliminarily enjoined distribution of **GUNSMOKE** cigarettes with a gunslinger design on its label as an encroachment upon Philip Morris' **MARLBORO COUNTRY** advertising trade dress.

Altira Group LLC . Philip Morris Companies - 207 F.Supp.2d 1193 (D Col. 2002) Co-Counsel in successful defense of Philip Morris Companies to change name to Altria Group. **PATENT AND TRADEMARK OFFICE LITIGATION**

Inter Partes Trademark Trial & Appeal Board Proceedings

Philip Morris v. Rembrandt Tobacco - 185 USPQ 823 (TTAB 1975) Successfully opposed registration of a cowboy photo label for **PAUL REVERE EXTRA** cigarettes on the basis of Philip Morris' long-established **MARLBORO COUNTRY** advertising (today it would be a "trade dress" case).

Miller Brewing v. Coy International - 230 USPQ 675 (TTAB 1986) Succeeded in winning an opposition on grounds of res judicata because the applicant had earlier withdrawn, without consent, an opposed application to register a similar mark.

Sharkskins Surfgear v. San Jose Sharks - 1996 TTAB LEXIS 45 Successful in registering the very successful **SAN JOSE SHARKS** logo design over the opposition of the owner of a **SHARKSKINS** logo design for surf clothing, and in

canceling the opposer's registration on grounds of non-use prior to application.

Ex Parte Trademark Trial & Appeal Board Proceedings

In re Four Seasons Hotels, Ltd. - 987 F.2d 1586 (Fed. Cir. 1993) Obtained most emphatic opinion that TTAB had to accept reasonably crafted coexistence/consent agreements between a registrant and applicant for a similar mark.

Bar admissions

Admitted to the bar in New York, the U.S. Supreme Court, the U.S. Court of Appeals for the 1st, 2d, 3d, 5th, 7th, 9th and Federal Circuits, various U.S. District Courts including the Southern and Eastern Districts of New York.

Additional information

Named to the 2006 and 2007 editions of *The Best Lawyers in America*. Recipient of International Trademark Association's President's Award for Lifetime Achievement 2003.

The Trademark Reporter: Editor-in-Chief, 1982-84; Editorial Advisory Board 1984-present; Author, Judicial Developments portion of the Annual Review (1986-2000) and various other articles totaling more than 1500 pages.

Charter member, INTA/CPR Panel of Neutrals.

CLE and Law School Guest lecturer numerous times.