



Contact

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Jeffrey H. Warshafsky is an associate in the Litigation Department. He is a commercial litigator with a particular emphasis on false advertising, trademark and counterfeiting disputes. Jeff also advises clients on anti-counterfeiting strategies, cybersquatting prevention, and other Internet-related trademark and copyright infringement matters. He also frequently does non-intellectual property work for many of Proskauer's sports clients.

Jeff is also a litigation department representative to the Firm's Associate Council.

## Matters

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### Representative matters include:

- *Jessani v. Monini North America, Inc.* (S.D.N.Y. 2017). Represented Monini, the U.S. subsidiary of a large Italian olive oil manufacturer, in obtaining complete dismissal of a class action false advertising law suit brought by two consumers who alleged that the labeling of Monini's White Truffle Flavored Extra Virgin Olive Oil misled them into believing that the product contains actual white truffle, when in fact there is no white truffle in the product. The district court agreed with Monini that no reasonable consumer would

understand the label to communicate that the product contained actual truffle, because the label simply represented that the product tasted like truffle and truffles were not on the label's ingredient list. Argued before the Second Circuit on appeal that the district court properly dismissed the complaint as a matter of law. The Second Circuit affirmed the complaint's dismissal.

- *Triangl v. Lingzhi* (S.D.N.Y. 2016). Represented the maker of Triangl bikinis in an IP infringement case against online sellers of knockoff bikinis. Obtained a judgment that Triangl's trademark, unregistered trade dress and various copyrights were protectable, and a broad permanent injunction prohibiting defendants from selling their infringing products.
- *Morrow v. PVH, et al.* (S.D. Cal. 2016), *Ramos v. PVH* (Cal. Supreme Court 2016), and *Dennis v. Ralph Lauren* (S.D. Cal. 2016). Representing the owners of the Calvin Klein, Tommy Hilfiger, Van Heusen and Ralph Lauren brands in defense of putative class actions alleging false discount pricing at California outlet stores. Pending.
- *Tween Brands Investment, LLC v. Bluestar Alliance, LLC* (S.D. Ohio 2015). Represented owners of Justice, the leading brand of tween-age girls' clothing, in the successful resolution of a sharply contested trademark, copyright, and false advertising suit in the Southern District of Ohio against Bluestar, owner of the Limited Too brand of girls' apparel. Case settled in 2017.
- *Church & Dwight Co., Inc. v. SPD Swiss Precision Diagnostics, GmbH* (S.D.N.Y. 2014). Counsel to plaintiff Church & Dwight in a Lanham Act false advertising action against competitor SPD Swiss Precision Diagnostics GmbH involving FDA-regulated home pregnancy tests. In a July 1, 2015 decision following a two-week trial on the liability and injunction phase of this bifurcated case, the Court found the defendant liable for false advertising, ruled that the false advertising was intentional and egregious, and granted our client's request for a permanent injunction, a nationwide package recall and corrective advertising. This decision was affirmed by the U.S. Court of Appeals for the Second Circuit in July 2016. In August 2018, following a trial on damages, the District Court adopted our calculation of lost profits and awarded our client almost \$10 million.
- *Excel Dryer, Inc. v. Dyson, Inc.* (D. Mass. 2012). Counsel to Dyson in defense

of Lanham Act false advertising suit concerning hand dryer advertisements. Defeated plaintiff's preliminary injunction motion. Case settled in April 2014.

- *NFL v. Gong Sunmei* (S.D.N.Y. 2013), *NFL v. Lionk Zhu* (S.D.N.Y. 2013) and *NFL v. Li Ming* (S.D.N.Y. 2014). On behalf of the National Football League and NFL Properties, secured broad ex parte, preliminary and permanent injunctive relief against Internet sellers of counterfeit NFL jerseys, disabled and seized more than 5,000 rogue websites, and obtained nearly \$2 billion in statutory damages.
- *Dyson, Inc. v. Bissell Homecare, Inc.* (N.D. Illinois 2010). Counsel to Dyson, plaintiff in Lanham Act false advertising litigation challenging a competitor's vacuum cleaner advertising. Case settled in 2013 following order granting summary judgment in favor of Dyson on liability.
- *TRIA Beauty v. Radiancy, Inc.* (N.D. Cal. 2010). Representation of Radiancy in Lanham Act false advertising suit concerning the efficacy of at-home hair removal devices and acne-removal devices.

#### Practices

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Litigation, Product Liability & Consumer Litigation, False Advertising & Trademark

#### Education

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Harvard Law School, J.D., 2011

Queen's University, B.S., 2008

#### Admissions & Qualifications

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New York

#### Court Admissions

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U.S. District Court, New York, Eastern District

U.S. District Court, New York, Southern District

#### Awards & Recognition

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New York Super Lawyers "Rising Stars" 2015-2019