Proskauer

Contact

Jennifer Yang

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Jennifer Yang is a partner in the Litigation Department. She is a skilled commercial litigator specializing in false advertising and other intellectual property disputes, including Lanham Act and consumer class action false advertising litigation, advertising challenges before the National Advertising Division (NAD) and National Advertising Review Board (NARB) as well as trademark, trade secret and copyright litigation. Jen represents clients in a variety of industries, including medical device companies, consumer products companies, cosmetics companies, food and beverage companies, fashion retailers, sports, entertainment and art foundations.

Jen regularly defends clients in threatened and filed consumer class actions. She has successfully helped clients defend cases around the country involving core product performance claims, ingredient claims, slack fill allegations, environmental and other ESG-related claims, pricing disputes, health claims, and allegations of undisclosed PFAS and other contaminants. Jen has extensive experience litigating matters involving foods, drugs, medical devices, dietary supplements and cosmetics, and is proficient on the impact of the regulatory frameworks governing these products on consumer class action defense.

Jen also frequently represents both plaintiffs/challengers and defendants/advertisers in competitor Lanham Act cases and challenges before NAD and NARB. She brings

her deep experience in litigation strategy and subject matter expertise to each case to achieve the best possible outcome for her clients.

A core part of Jen's practice includes counseling clients on advertising and claim substantiation. She leverages her expertise in NAD, regulatory guidance (including the FTC Endorsement Guides, Green Guides and Negative Option Rule), state consumer protection statutes and consumer class action trends to work closely with clients and their marketers to help develop compelling marketing campaigns and messaging while minimizing legal risk. Jen also partners with clients' R&D teams to help develop robust claim substantiation in accordance with best legal practices, including clinical studies, in vitro testing, sensory studies, home use tests, and consumer and expert surveys.

Jen is Vice Chair of the ABA Advertising Disputes & Litigation Committee, a member of the NAD Conference Planning Committee, and a regular speaker at ANA's Masters of Advertising Law Conference. She is also an author and editor of Proskauer's advertising law blog, Proskauer on Advertising.

Matters

Representative matters include:

- *Logan v. Playa Bowls* (S.D.N.Y. 2026). Represented Playa Bowls in defense of a putative class action alleging defendant made false and deceptive health claims across its website and in-store advertising. The Court granted our motion to dismiss the complaint in its entirety and with prejudice.
- *Madonna Concert Litigation* (2023–Present). Represented Madonna, Live Nation, and various concert venues in defense of consumer class actions and related litigation in numerous courts around the country. The plaintiffs alleged that defendants falsely advertised Madonna's concerts, including the start times and venue temperature. We succeeded in getting every case dismissed prior to discovery. Plaintiffs are appealing one of those dismissals to the Ninth Circuit and the appeal is pending.

- *Neuralpulse v. Water Pik*(D. Col. 2026). Represented Water Pik in declaratory judgment action related to plaintiff's advertising of its competing water flosser products. The case resolved after we asserted Lanham Act counterclaims alleging plaintiff's advertising was false and misleading.
- *P&G v. Church & Dwight* (NAD 2025). Represented Church & Dwight in defense of advertising for its TheraBreath mouthwash. NAD agreed with our argument that the statement "It's a better mouthwash. I guarantee it" by the product's inventor constitutes puffery and does not require substantiation.
- *La Rosa v. Church & Dwight* (2d Cir. 2024). Represented Church & Dwight Co. in a putative class action alleging defendants deceptively labeled ovulation test kits as "99% Accurate" at detecting ovulation. The District Court granted our motion to dismiss all of plaintiffs' claims with prejudice, and the Second Circuit affirmed.
- *Fairstein v. Netflix* (S.D.N.Y. 2024). Represented Netflix, acclaimed director/writer Ava DuVernay, and award-winning writer Attica Locke in a defamation case brought by former head of the Manhattan District Attorney's Office sex crimes unit, Linda Fairstein. Plaintiff alleged that defendants' series, "When They See Us," which tells the story of the Central Park 5, depicted her in a false and defamatory light. Case settled one week prior to trial on non-confidential, extremely favorable terms for the defendants involving no payment to plaintiff.
- *NFL v. DIRECTV* (NAD 2023). Represented the National Football League in a challenge to DIRECTV's ad campaign featuring Travis Kelce that claimed DIRECTV gives fans access to every NFL game. The National Advertising Division found the challenged claims were unsupported because a DIRECTV itself subscription does not allow fans to watch every NFL game. NAD thus recommended that DIRECTV discontinue its claims or modify them to avoid conveying this message.
- *S.C. Johnson & Son v. PurposeBuilt Brands* (NAD 2023). Represented S.C. Johnson before the National Advertising Division in a challenge to advertising for Weiman cleaning products. In response to the challenge, the advertiser voluntarily discontinued all the challenged claims.

- *Oyler v. NFL Enterprises* (S.D.N.Y. 2022). Represented NFL Enterprises in defense of a putative class action alleging that subscribers to NFL+ were deceived into recurring charges and prevented from canceling. After we filed our pre-motion letter articulating reasons for the complaint's dismissal, the plaintiff chose not to pursue the case and voluntarily dismissed it.
- *3B Medical v. SoClean, Inc.* (S.D.N.Y. 2022): Obtained dismissal with prejudice on behalf of SoClean in a false advertising Lanham Act case involving marketing of its CPAP cleaning medical devices.
- *Evans v. Church & Dwight* (N.D. Ill. 2022). Represented Church & Dwight in defense of a putative class action alleging benzene contamination in dry shampoo. Case settled shortly after we moved to dismiss.
- *Alcon v. Bausch & Lomb* (NAD 2021 and NARB 2022). Represented the advertiser before the National Advertising Division and the National Advertising Review Board. As a result of our defense before NAD and appeal of some claims to NARB, we preserved key advertising claims that the client makes to eye care professionals.
- *Fallenstein v. PVH* (S.D. Cal. 2021). Represented PVH in defense of putative class action suits alleging deceptive discount price advertising at California Calvin Klein outlet stores. Case settled.
- *Stephens v. Monsanto* (San Bern. Super. Ct. 2021). Represented Monsanto in defense of a landmark product liability trial over claims that its weedkiller, Roundup, causes cancer. After a five-month trial, the jury returned a complete defense verdict.
- *Church & Dwight Co., Inc. v. SPD Swiss Precision Diagnostics, GmbH* (S.D.N.Y. 2018). 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.

- *Bilinski, et al. v. The Keith Haring Foundation, Inc. et al.* (S.D.N.Y. 2014). Counsel to defendants the Keith Haring Foundation and related entities in a dispute alleging defamation, antitrust violations, Lanham Act false advertising and various other torts in connection with the Foundation's determination that works of art owned by the plaintiffs were not authentic works by the hand of Keith Haring. On March 6, 2015, the District Court granted our motion to dismiss all nine causes of action asserted in plaintiffs' second amended complaint. On December 2, 2015, the U.S. Court of Appeals for the Second Circuit also ruled in favor of our clients, affirming the District Court's dismissal of the case.
- *Morrow v. PVH, et al.* (S.D. Cal. 2016), *Ramos v. PVH* (E.D. Cal. 2016) and *Dennis v. Ralph Lauren* (S.D. Cal. 2016). Counsel to 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.
- *Gambro Renal Products, Inc. v. NxStage Medical, Inc.* (D. Mass. 2012). Counsel to defendant NxStage in defense of a Lanham Act false advertising litigation involving marketing of Continuous Renal Replacement Therapy devices used in hospital intensive care units for the treatment of patients suffering from end-stage kidney failure. Case settled in 2014.
- *The Jones Group Inc. et al. v. Roberto Zamarra et al.* (N.Y. Sup. Ct. 2013). Counsel to plaintiffs The Jones Group and Nine West in a case concerning employee non-solicit and confidentiality agreements, and misappropriation of confidential information and trade secrets. Case settled in 2014.
- *Radiancy, Inc. v. Viatek Consumer Products Group, Inc.* (S.D.N.Y. 2013). Representation of plaintiff patent holder in patent infringement, trademark infringement and false advertising litigation concerning defendant's at-home hot wire hair-removal devices (pending). Case settled in 2016.
- *Energizer Brands, LLC v. Spectrum Holdings, Inc.* (E.D. Mo. 2016). Counsel to plaintiff Energizer in trademark and trade dress infringement litigation concerning Energizer's product packaging. Case settled in 2017.

- *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.

Practices

Restrictive Covenants, Trade Secrets & Unfair Competition, Litigation, False Advertising & Trademark, Real Estate Litigation, Mass Torts & Product Liability

Market Solutions

Artificial Intelligence

Education

Columbia Law School, J.D.
Harlan Fiske Stone Scholar
University of California, Berkeley, B.A.
Phi Beta Kappa
Distinction in General Scholarship

Admissions & Qualifications

New York

Clerkships

New York Supreme Court, Bronx County - Hon. Richard Lee Price

Court Admissions

U.S. Court of Appeals, Second Circuit
U.S. District Court, New York, Eastern District
U.S. District Court, New York, Southern District

Awards & Recognition

Chambers USA: Nationwide: Advertising: Litigation: Up & Coming 2025-2026

The Legal 500 United States: Media, Technology and Telecommunications: Advertising & Marketing: Litigation (Rising Star 2020-2024), (Leading Lawyer 2025), (Next Generation Partner 2026)

Best Lawyers in America: Ones to Watch 2021-2025

Languages

Mandarin