



## → Kent R. Raygor

Partner

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Kent Raygor, a partner in the Century City office, practices in the Entertainment, Media, and Technology Group.

### Areas of Practice

- **Intellectual property litigation and counseling**—trademark, copyright, trade dress, false advertising, computer, and Internet
- **Media law litigation and counseling**—First Amendment and right of publicity litigation; pre-publication clearance analyses

### Professional Qualifications and Activities

- Chair of Sheppard Mullin's Intellectual Property Department (1997-2002)
- Broad experience in jury trials, bench trials, and arbitrations in the California and Federal Courts
- Appeals before the California Courts of Appeal, California Supreme Court, Ninth Circuit Court of Appeals, Federal Circuit Court of Appeals, and United States Supreme Court
- Named a "Southern California Super Lawyer" for intellectual property litigation in 2006, 2007, and 2009 (*Los Angeles Magazine*)
- Named as one of the "Top 10 Entertainment IP Lawyers" in California (*Los Angeles Daily Journal*, April 9, 2008)
- Recognized for digital rights management and digital convergence expertise in 2006 (*Los Angeles Business Journal*, *Who's Who In Law—Intellectual Property* issue)
- Judge *Pro Tem*, Los Angeles Municipal and Superior Courts (1996 to 2002)
- Board of Directors, Legal Aid Foundation of Los Angeles (LAFLA, 2006 to present)

## Experience

### Representative Litigation Experience

#### **Trademark And Copyright Cases**

*Hasbro, Inc. v. MGA Entertainment, Inc.*

Successfully defended MGA (creator of the Bratz® dolls and television, video game, and film characters) in a trademark infringement case brought by Hasbro in Rhode Island (Hasbro's headquarters). Hasbro claimed that MGA's "*Spider-Man & Friends 3-D Memory Match-Up*" game infringed Hasbro's rights in a card-matching game called "Memory" that Hasbro had marketed since 1966. After a seven-day trial, the Court ruled in favor of MGA,

finding that it had shown (through third-party memory games, dictionaries, encyclopedias, trade publications, expert testimony from linguists and game experts, federally issued patents and trademark registrations describing memory games, Hasbro's own use of "memory" with other products in a generic sense, and other evidence) that, despite Hasbro's 40 years of marketing of the game, claimed \$130,000,000 in sales, and an incontestable trademark registration, the term "memory" was generic for this type of matching game and could not function as a trademark, thereby resulting in a total loss of trademark rights by Hasbro. *Hasbro, Inc. v. MGA Entertainment, Inc.*, 497 F. Supp. 2d 337 (D.R.I. 2007).

#### *Starz Entertainment v. Buena Vista Television*

Represented **Buena Vista Television (The Walt Disney Company)** in a major copyright infringement and breach of contract action arising out of the electronic sell-through by Buena Vista Home Entertainment of Disney films through Apple's iTunes service and other Internet retailers. Starz asserted that such sales breached its exclusive license agreement with Buena Vista Television, which gave Starz the right to exhibit Disney films through Starz' subscription-based pay television services. The case settled in December 2008 two weeks before trial was to commence.

#### *Mondane v. Screen Gems, Sony Pictures Entertainment, Rainforest Films*

Defended **Screen Gems, Sony Pictures, and Rainforest Films** in a copyright infringement and idea submission case brought over the 2007 film *Stomp The Yard*. The plaintiff dismissed its suit just before the Court ruled on Screen Gems', Sony's, and Rainforest's summary judgment motion.

#### *Streat v. Rainforest Films, Sony Pictures Releasing Corp.*

Defended **Rainforest Films and Sony Pictures** in a copyright infringement and idea submission case brought over the 2005 film *The Gospel*. The plaintiff dismissed its suit just before the Court ruled on Rainforest's and Sony's summary judgment motion.

#### *In re The Gator Corporation Software Trademark & Copyright Litigation*

Lead counsel for **The Gator Corporation (now Claria Corporation)** in a multidistrict litigation (MDL) federal action in Atlanta that combined multiple federal lawsuits filed around the U.S. against Gator involving permission-based pop-up Internet advertising delivered to subscribers targeted at interests they exhibit through their web-surfing behaviors. The plaintiffs (UPS, Wells Fargo, Hertz, L.L. Bean, TigerDirect, Intercontinental Hotels, Holiday Inn Hotels, Overstock.com, LendingTree, PriceGrabber, and others) argued that Gator's delivery of behaviorally targeted pop-up ads to consumers' home computer monitors, even when those consumers agree to receive such ads, infringed the plaintiffs' trademarks and copyrights. *The Hertz Corporation v. The Gator Corporation*, 250 F. Supp. 2d 421 (D.N.J. 2003); *In re The Gator Corporation Software Trademark & Copyright Litigation*, 259 F. Supp. 2d 1378 (J.P.M.L. 2003).

#### *Research In Motion (Blackberry) v. Samsung*

Defended **Samsung** against trademark infringement claims asserted by Research In Motion, which claimed that Samsung's "BlackJack" smartphone and "Black Carbon" unlocked mobile phone infringed RIM's trademark rights in the term "BlackBerry".

#### *Al Capp Enterprises v. The Walt Disney Company, ABC*

Defended **Disney and ABC** in a trademark infringement suit filed by Al Capp Enterprises, owner of rights to the *L'il Abner* comic strip and characters, over references in the *Lizzie McGuire* television series to a "Sadie Hawkins Day" and "Sadie Hawkins Dance." Obtained a dismissal of the entire action.

## *Flying Mallard Productions, Scott Gurney, Deirdre Delaney v. ESPN, Inc.*

Successfully defended **ESPN** in a trademark infringement, idea submission, and right of publicity suit filed by actors Scott Gurney and Deirdre Delaney over ESPN's 2003 reality-based prime-time series, *Totally Hooked*, which the plaintiffs alleged appropriated their ideas and format for an earlier series, *Fish On!*, aired by ESPN in 2002. ESPN defeated an injunction request aimed at barring airing of the series and the case settled.

## *Fuel Design v. Fox Extreme Sports Network*

### *Fuel Clothing Company, Inc. v. Fuel TV, Inc.*

Defended **Fox Cable Networks Group** in two trademark infringement suits filed by two companies using the name "Fuel" (one a broadcast design company and the other an action sports clothing company) over the name of Fox's new 24/7 action sports television network, **Fuel TV**. The *Fuel Design* case ended in a settlement after the plaintiff failed to obtain a TRO enjoining the launch of Fox's new network. The *Fuel Clothing* case ended in a settlement just before trial was to commence.

## *UGG Holdings, Deckers Outdoor Corporation v. Koolaburra*

Represented **UGG** and **Deckers**, manufacturers and sellers of the famous UGG® sheepskin boots, in a trademark infringement claim against another manufacturer of sheepskin boots that was claiming superior rights in the UGG mark. Among other things, the defendant argued that the term "ugg" was generic for such footwear in Australia and that the doctrine of foreign equivalents (despite the fact that this was an English-to-English comparison) thereby mandated invalidation of UGG's trademark rights in the U.S. Obtained summary judgment for UGG and Deckers on all claims, thereby defeating a genericness attack on the famous UGG trademark.

## *Twentieth Century Fox Film Corporation v. Anheuser-Busch, Inc.*

Represented **Fox** in a trademark opposition proceeding before the United States Patent & Trademark Office's Trademark Trial and Appeal Board against Anheuser-Busch arising from its attempt to register KING OF THE HILL as a beer-related trademark, in violation of Fox's trademark rights in the *King of the Hill* animated television series.

## *World Gym v. Bally Total Fitness*

Defended **Bally** in a trademark infringement and trade secret case involving a contemplated acquisition of World Gym by Bally and the use by both fitness center chains of a "gorilla" logo. Bally prevailed.

## *GEICO Insurance*

Represented **GEICO** in a trade name infringement action involving the infringement of GEICO corporate names by off-shore insurers in the Caribbean. GEICO prevailed.

## *AKA Clothing, Inc. v. Eddie Baer, Inc.*

Defended **Eddie Bauer** in a trademark infringement case filed by a clothing manufacturer who objected to a new line of Eddie Bauer clothing marketed under an "AKA" name. Eddie Bauer prevailed and launched a national chain of AKA EDDIE BAUER stores.

## *Billabong USA*

Represented **Billabong** in numerous successful counterfeiting, trademark, and copyright infringement matters involving use of the BILLABONG® trademarks with clothing, surfwear, films, contests, and other goods and services.

## *Hurley International*

Represented **Hurley International** in numerous successful trademark infringement matters over unlawful use of the HURLEY® marks with clothing, surfwear, films, contests, and other goods and services.

*Classic Concepts v. Pier 1 Imports*

Represented **Pier 1 Imports** in copyright infringement suits over the design of kilims and other products sold by Pier 1.

*Twentieth Century Fox Film Corporation v. Baby Einstein*

Represented **Fox** in a trademark infringement claim over Baby Einstein's creation of a series of "Baby Dolittle" DVDs in violation of Fox's rights in the DR. DOLITTLE and DOCTOR DOLITTLE trademarks and the *Dr. Dolittle* literary properties.

*Herbalife International v. Lumene North America*

Represented *Herbalife* in stopping trademark infringement by a Finnish cosmetics company and its U.S. subsidiary who were violating Herbalife's trademark rights in the mark RADIANT C® for skin care products.

*Herbalife International v. George Zoorob*

Representing **Herbalife** in an opposition proceeding before the United States Patent & Trademark Office's Trademark Trial and Appeal Board over an applicant's attempt to register the trademark HERBALVIVE for nutritional products.

*StudioCanal v. Digidesign, Avid Technology*

*StudioCanal v. Universal Audio*

Represented **StudioCanal** in stopping the infringement of trademarks and other ownership rights from the 1984 film, *This Is Spinal Tap*.

*Propel Software v. Samsung*

Defending **Samsung** against trademark infringement claims asserted by a software manufacturer over Samsung's new Propel smartphone.

*RKO Pictures v. Qantas Airlines*

Defending **Qantas** against trademark infringement claims asserted by RKO over Qantas' use of artwork depicting a radio tower perched on a globe of the Earth in a Qantas advertisement.

*U.S. Olympic Committee*

Defended a client, which had endorsement deals with several athletes who participated in the 2008 Olympic Games in Beijing, against claims by the USOC that the client was infringing and improperly using USOC trademarks.

*Playboy Enterprises*

Represented **Playboy** and various persons affiliated with it in enforcement of Playboy trademark rights.

*Anti-Piracy Enforcement*

Represented a foreign television network in stopping piracy of its television programming through Internet streaming.

*Domain Name Disputes*

Conducted numerous domain name and cybersquatting dispute resolution actions before the World Intellectual Property Organization (WIPO) pursuant to the Uniform Domain Name Dispute Resolution Policy (UDRP) adopted by the Internet Corporation for Assigned Names and Numbers (ICANN).

## *Title And Trademark Clearance Analyses And Opinions*

Performed numerous title and trademark clearance analyses and litigation avoidance opinions for **Twentieth Century Fox Film Corporation** and many other studios involving many broadcast and cable, television, film, website, and mobile properties.

## *Trademark Compliance Programs*

Created and implemented a trademark compliance and pre-publication clearance program for **Twentieth Century Fox Film Corporation**.

Taught a series of trademark, copyright, and right of publicity programs for **Lions Gate Entertainment**.

Provided trademark and pre-publication clearance seminars for various other studio clients and advertising agencies.

## **Right Of Publicity Cases**

*Chris Cornell, et al. [dba "Audioslave"] v. Miller Brewing Company, Young & Rubicam, Inc., Giannini Creative Imaging*

Represented **Miller Brewing Company, Young & Rubicam, Inc., and Giannini Creative Imaging** in a right of publicity and false endorsement suit filed by the band **Audioslave** over a Miller advertisement in an issue of *Rolling Stone* magazine that celebrated 50 years of rock and roll history. The background for the ad consisted of a collage of many ticket stubs for rock shows covering a 32-year time span, and one of those ticket stubs was for an Audioslave show.

*Rivers Cuomo, et al [dba "Weezer"] v. Miller Brewing Company, Young & Rubicam, Inc., Giannini Creative Imaging*

This is another suit asserting the same claim, filed by the band **Weezer**, as in the *Audioslave* case mentioned above.

*Noah Johnson v. Hurley International*

Defended **Hurley International**, the designer and wholesaler of HURLEY® brand clothing, against right of publicity, breach of contract, and false endorsement claims asserted by one of Hurley's sponsored professional surfers. Prevailed after a full trial.

*Jennifer Aniston v. Man's World Publications*

Successfully defended **Universal Media's High Society and Celebrity Skin** magazines in a First Amendment, privacy, and right of publicity case filed by **Jennifer Aniston** over the publication of a topless photograph of her taken by a paparazzo who shot photos of her while she was sunbathing topless in her back yard. The case settled on the first day of a jury trial in federal court.

*Arnold Schwarzenegger, Bruce Willis, Denzel Washington v. Fry's Electronics*

Defended **Fry's Electronics** in a right of publicity suit filed by **Arnold Schwarzenegger, Bruce Willis, and Denzel Washington** who claimed that the use by Fry's of images of their characters from the 2002 films *Collateral Damage* (Schwarzenegger) *Hart's War* (Willis), and *John Q* (Washington) in depictions of television monitors used in Fry's newspaper ads promoting the sale of DVDs of the actors' films, infringed those actors' rights.

*Arnold Schwarzenegger v. Best Buy, Lions Gate Entertainment*

Defended **Lions Gate Entertainment** in a right of publicity claim filed by **Arnold Schwarzenegger**. Best Buy advertised the sale of the *Terminator 2* DVD, released by Lions Gate. Like the *Fry's* case, Best Buy used an image from the film in depictions of television monitors in the ad.

*Brad Pitt, Jennifer Aniston v. Casa Damiani*

Defended **Damiani**, an Italian jewelry design house, against right of publicity and idea submission claims filed by **Brad Pitt** and **Jennifer Aniston** involving their engagement and wedding jewelry, which Pitt claimed to have designed and Damiani produced.

*Catherine Zeta-Jones v. Caudalie, Neiman Marcus, Turnberry Estates*

Defended **Caudalie**, a French cosmetics company, in a right of publicity and false designation of origin suit filed by **Catherine Zeta-Jones** arising from Caudalie's reference in marketing materials to reports that Zeta-Jones had purchased and used Caudalie products.

*Brad Pitt v. Playgirl, Inc.*

Defended *Playgirl* magazine in a First Amendment, privacy, and right of publicity case. *Playgirl* had republished nude photographs of **Brad Pitt** and **Gwyneth Paltrow** taken by a paparazzo while they were on vacation in St. Bart's, which others had previously published in European tabloids.

*Leonardo DiCaprio v. Playgirl, Inc.*

Defended *Playgirl* magazine in a First Amendment, privacy, and right of publicity case. *Playgirl* had published stills of a full frontal nude scene **Leonardo DiCaprio** had done in the 1995 film *Total Eclipse*.

*José Solano v. Playgirl, Inc.*

Defended *Playgirl* magazine in a First Amendment, privacy, and right of publicity case. **Jose Solano**, a former *Baywatch* actor, sued *Playgirl* magazine because it had used his headshot in an article, which included no nudity, about ten "hot" male actors in Hollywood. The actor's publicity still was also used on the cover. He argued that he suffered a privacy invasion because the nudity content of the magazine allegedly placed him in a false light. The Court granted summary judgment in favor of *Playgirl* on all claims and ordered Solano to pay *Playgirl*'s attorneys' fees. That decision was then reversed and remanded for trial in *Solano v. Playgirl*, 292 F.3d 1078 (9th Cir. 2002), after which the case settled.

*Berto Luna v. Playgirl, Inc.*

Represented *Playgirl* magazine in a First Amendment freedom of speech, privacy, and right of publicity case filed by Mexican model **Berto Luna**. The court granted summary judgment in favor of *Playgirl* on all claims, and ordered Luna and his counsel to pay *Playgirl*'s attorneys' fees.

*Dolores Hope Masi Collection v. CMG Worldwide*

Represented **Dolores Hope Masi**, whose family was close to **Marilyn Monroe**. Marilyn Monroe gave many personal items to Ms. Masi and her family. Masi tried to market those items as part of a high-end collection. CMG Worldwide claimed to hold all deceased personality rights of publicity related to Marilyn Monroe and tried to stop any commercial use of these items.

*Frankie Avalon v. Avalon Hotel*

Represented the **Avalon Hotel** in Beverly Hills in a right of publicity claim asserted by **Frankie Avalon** over use of the Avalon name.

*Carmen Electra v. Naked Women's Wrestling League*

Representing **NWWL** in a right of publicity claim asserted by **Carmen Electra** arising out of a contract pursuant to which she was to provide commentary and promotional activities for pay-per-view wrestling bouts.

## *Batjac Productions*

Represented **Batjac Productions**, John Wayne's production company, in right of publicity issues arising out of the use of **John Wayne's** name and likeness.

## *Angelica Pamintuan v. Infinity Studios*

Successfully defended **Infinity** with an anti-SLAPP special motion to strike filed against a claim that *Infinity's Mystique* magazine was unlawfully publishing modeling photographs of the plaintiff, who had modeled for the magazine.

## **Patent Cases**

### *Boyle v. Twentieth Century Fox Film Corporation, Digital Domain*

Represented **Twentieth Century Fox** and **Digital Domain**, an Academy Award®-winning special effects house, in a patent infringement suit involving the special effects for the 1998 film, *Titanic*. Fox and Digital Domain prevailed.

### *Litton Systems, Inc. v. Honeywell, Inc.*

Represented **Honeywell** in a three-month patent infringement jury trial—the largest patent case in U.S. history at the time. The technology involved thin film physics, laser optics, and materials science. Following the trial, the Court declared Litton's patent invalid and overturned a \$1.2 billion jury verdict as unsupported by the evidence, thus enabling Honeywell to continue its highly successful inertial navigation systems business. The case was appealed to the United States Supreme Court. In 1999, the trial court granted summary judgment in Honeywell's favor on all remaining claims. The Federal Circuit then affirmed the judgment in Honeywell's favor that no patent infringement had ever occurred, effectively ending the patent case after 11 years. The case is reported at *Litton Systems, Inc. v. Honeywell, Inc.*, 1995 U.S. Dist. LEXIS 729 (C.D. Cal. 1995); *Litton Systems, Inc. v. Honeywell, Inc.*, 87 F.3d 1559 (Fed. Cir. 1996); *Litton Systems, Inc. v. Honeywell, Inc.* 1996 U.S. App. LEXIS 30316 (Fed. Cir. 1996); *Litton Systems, Inc. v. Honeywell, Inc.*, 118 F.3d 747 (Fed. Cir. 1997); *Honeywell, Inc. v. Litton Systems, Inc.*, 520 U.S. 1111 (1997); *Litton Systems, Inc. v. Honeywell, Inc.*, 140 F.3d 1449 (Fed. Cir. 1998); *Litton Systems, Inc. v. Honeywell, Inc.*, 145 F.3d 1472 (Fed. Cir. 1998); *Litton Systems, Inc. v. Honeywell, Inc.*, 238 F.3d 1376 (Fed. Cir. 2001).

## Articles

- 2023 Insurance Team Year-In-Review  
04.03.2024
- Sheppard Mullin Celebrates Stellar Year in Insurance Litigation  
03.30.2023

## Publications

- K. Raygor and O. Caglar, *Snow Line: Understanding Dilution Claims Under The Lanham Act*, California Law Business (September 1999)
- K. Raygor, *Sanitizing Hollywood: The Family Entertainment and Copyright Act of 2005*, MediaLawLetter (Media Law Resource Center, May 2005)
- K. Raygor and D. Ryan, *The Cost of Protecting California's Royalty: Assault Liability Under the Anti-Paparazzi Act*, MediaLawLetter (Media Law Resource Center, January 2006)

- K. Raygor, *Surviving The Matrix: Legal Pitfalls of Blurring Fact and Fiction*, presented at the Donald E. Biederman Entertainment & Media Law Institute (January 26, 2006)
- K. Raygor, *Perfect 10 Scores A Not-So-Perfect Rating By The Ninth Circuit*, MediaLawLetter (Media Law Resource Center, May 2007)
- K. Raygor and V. Alter, *It's Not Just Make-Believe Anymore: Fantasy Baseball And The Right Of Publicity*, ABA Media, Privacy And Defamation Law Committee Newsletter (ABA, Winter/Spring 2008)
- K. Raygor and B. Bakhtari, *Great Success! 'Borat's' Release Agreement Averts Liability*, New York Law Journal (July 16, 2008)
- K. Raygor, *Protection Of Celebrity Rights: What You Need To Know Now*, presented at the USC Gould School of Law – Beverly Hills Bar Association 2008 Institute on Entertainment Law and Business (October 18, 2008)
- K. Raygor and V. Alter, *Fair Use And The Right Of Publicity: A Search For A More Balanced Approach*, 2008 Media Law Resource Center Bulletin, Issue No. 4, at 129-147 (December 2008)

## Legislation

- Co-authored the *1999 Anticybersquatting Consumer Protection Act*, introduced by U.S. Senators Orrin Hatch and Patrick Leahy and signed by President Clinton on November 29, 1999, which amended the Lanham Act to provide remedies for the misappropriation and misuse of Internet domain names.

## Media Mentions

Justices refuse to hear appeal to LA County's flavored tobacco ban  
*Daily Journal*, 03.01.2023

What's Changed?: Checking In With Kent Raygor of Sheppard Mullin  
*The American Lawyer*, 06.22.2022

## Events

Taming the Dangerous Communication Device: A Guide to the Use and Misuse of Email  
06.30.2023

## Memberships

International Trademark Association (INTA) - Member since 1987; Committee member, U.S. Legislation Committee (1990-94, 1999-2002); Committee member, Trademark Reporter Committee (2008-present); Editor, THE TRADEMARK REPORTER (2008-present)

Los Angeles Copyright Society

American Intellectual Property Law Association (AIPLA)

American Bar Association (Patent, Trademark, and Copyright Section)

State Bar of California (Intellectual Property Section)

Media Law Resource Center (MLRC)



## Practices

Litigation

Intellectual Property

Copyrights

False Advertising, Lanham Act and Unfair Competition

IP Licensing, Technology and Commercial Transactions

Patent Litigation

Trade Secrets

Trademarks and Trade Dress

Entertainment, Technology and Advertising

International Reach

Japan

Korea

Advertising

Appellate

## Industries

Advertising

Automotive

Entertainment, Technology and Advertising

Esports & Games

Financial Services

Hospitality

Sports

Transportation