



KENT R. RAYGOR

Partner

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PRACTICE AREAS

- Litigation
- Intellectual Property
- Entertainment, Media and Technology
- International Practice

INDUSTRIES

- Advertising
- Entertainment, Media and Technology
- Sports
- Video Game

OVERVIEW

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

Areas of Practice

- Civil litigation with an emphasis on **intellectual property** and **media law** litigation
- **Intellectual property litigation and counseling**—trademark, copyright, trade dress, trade secret, false advertising, patent, computer, and Internet
- **Media law litigation and counseling**—First Amendment, privacy, defamation, and right of publicity litigation; pre-publication clearance analyses for films, documentaries, screenplays, advertisements, books, and news reports

Professional Qualifications and Activities

- Tried numerous cases in the California and Federal Courts, and had 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
- Broad experience in jury and bench trials, and arbitrations
- Recognized as one of the "Top 10 Entertainment IP Lawyers" in California (*Los Angeles Daily Journal*, April 9, 2008)
- Named a 2006, 2007, and 2009 "Southern California Super Lawyer" for intellectual property litigation (*Los Angeles Magazine*)
- Recognized in 2006 for digital rights management and digital convergence expertise (*Los Angeles Business Journal*, *Who's Who In Law—Intellectual Property* issue)
- Was a Judge *Pro Tem* for the Los Angeles Municipal and Superior Courts (1996 to 2002)
- On the Board of Directors of the Legal Aid Foundation of Los Angeles (LAFLA)

EDUCATION

- J.D., Minnesota Law School, 1984, cum laude
- B.A., Music Theory and Composition, University of Minnesota, 1976, *summa cum laude*

EXPERIENCE

Representative Litigation Experience

Right Of Publicity Cases

Jennifer Aniston v. Man's World Publications

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, ending in a settlement on the first day of a jury trial.

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

Defended **Fry's Electronics**, a consumer electronics retailer, in a right of publicity suit filed by **Arnold Schwarzenegger**, **Bruce Willis**, and **Denzel Washington** involving use of their images in depictions of television monitors in Fry's newspaper ads promoting the sale of DVDs of the actors' films.

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 a right of publicity claim filed by **Brad Pitt** and **Jennifer Aniston** involving their 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, 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 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 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 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).

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.

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.

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 her 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 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.

Other Media law Cases

Microsoft Corporation v. CNET News.com

Defended **CNET News.com** in a First Amendment and journalist's privilege dispute involving Microsoft's attempt to discover the identity of CNET's confidential sources who obtained **Bill Gates'** e-mail files. CNET prevailed.

People v. Martin Scorsese, Universal/MCA Pictures, Cineplex Odeon

Represented **Martin Scorsese, Universal/MCA Pictures, and Cineplex Odeon Corporation** in First Amendment cases that successfully blocked attempted censorship of the film *The Last Temptation of Christ* under blasphemy, picketing,

obscenity, and other laws.

Abraham v. Lancaster Community Hospital

Represented a hospital director for **Antelope Valley Hospital** in a landmark defamation and judicial proceedings privilege case, reported at *Abraham v. Lancaster Community Hospital*, 217 Cal. App. 3d 796 (1990).

Trademark And Copyright Cases

Starz Entertainment v. Buena Vista Television

Represented **Buena Vista Television** in a major breach of contract and copyright infringement action arising out of the electronic sell-through by Buena Vista Home Entertainment of Disney films through Apple's iTunes service. Starz asserted that such sales breached its 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 just weeks before trial was to commence.

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

Represented **Screen Gems, Sony**, and **Rainforest** in a copyright infringement case brought over the 2007 film *Stomp The Yard*. The Plaintiff dismissed its suit after the defendants filed a summary judgment motion.

Streat v. Rainforest Films, Sony Pictures Releasing Corp.

Represented **Rainforest** and **Sony** in a copyright infringement case brought over the 2005 film *The Gospel*. The Plaintiff dismissed its suit after the defendants filed a summary judgment motion.

In re The Gator Corporation Software Trademark & Copyright Litigation

Defended **The Gator Corporation** (now **Claria Corporation**) in a multidistrict litigation (MDL) action in Atlanta, Georgia 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 the delivery of pop-up ads to consumers' home computer monitors, even when those consumers agree to receive such ads, constitutes infringement of 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 v. Samsung

Represented **Samsung** in defense of trademark infringement claims asserted by Research In Motion (RIM). RIM asserted that Samsung's "BlackJack" smartphone and "Black Carbon" unlocked mobile phone infringed RIM's trademark rights in the term "BlackBerry".

Hasbro, Inc. v. MGA Entertainment, Inc.

Represented MGA (creator of the Bratz® dolls and television and film characters) in a trademark infringement case brought by Hasbro (and its Milton Bradley division) in Rhode Island involving Hasbro's claims that MGA's "*Spider-Man & Friends 3-D Memory Match-Up*" game infringed Hasbro's rights in a card-matching game, called "Memory", it had marketed since 1966. After a seven-day evidentiary hearing, the Court found that MGA succeeded in showing (through third-party memory games,

dictionaries, encyclopedias and trade publications predating and postdating Milton Bradley's first use that contained entries for "memory" as the name of the classic card-matching game, 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. *Hasbro, Inc. v. MGA Entertainment, Inc.*, 497 F. Supp. 2d 337, 2007 WL 2182128 (D.R.I. 2007).

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.

Defended **ESPN** in a trademark infringement 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 network, Fuel TV. The *Fuel Design* case ended in a settlement after a failed attempt 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 which was claiming superior rights in the 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. Obtained summary judgment for UGG and Deckers on all claims.

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

Represented **Fox** in an opposition proceeding filed against Anheuser-Busch involving its attempt to register KING OF THE HILL as a beer-related trademark. Fox was asserting its rights in the mark arising from its *King of the Hill* animated 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.

Represented **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 and trademark and copyright infringement matters involving use of the BILLABONG® marks with clothing, surfwear, films, contests, and other goods and services.

Hurley International

Represented **Hurley International** in numerous successful trademark infringement matters involving 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.

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).

Billabong USA

Represented **Billabong** in patent infringement matters involving BILLABONG® wetsuits.

Seche, Inc.

Represented **Seché** in a patent infringement action involving the chemical formulation of a fast-drying top coat for application over wet nail polish.

Trade Secret Cases

Quarterdeck Office Systems v. Wollongong International

Represented **Quarterdeck Office Systems** in a trade secret case involving former employees who misappropriated software code for an Internet browser. Conducted a search and seizure of the purloined software in conjunction with law enforcement agencies.

Litton Systems, Inc. v. Sundstrand Corporation

Represented **Sundstrand Corporation** in a trade secret misappropriation case involving ring laser gyroscope-based inertial navigation systems for aircraft.

McDonnell Douglas Corporation v. Northrop Corporation

Represented **Northrop Corporation** in a lawsuit filed by McDonnell Douglas involving misappropriation of technology used for the avionics and graphic user interfaces for the F-18 fighter aircraft.

Sysco Food Services

Harbor Truck Bodies

Represented these companies in separate actions involving employees who left with company trade secrets and moved to its chief competitor.

MEMBERSHIPS

- Media Law Resource Center (MLRC)
- Los Angeles Copyright Society
- International Trademark Association (INTA; member of the U.S. Legislation Committee, 1990-94, 1999-2002; member of the Trademark Reporter Committee, 2008-present)
- American Intellectual Property Law Association (AIPLA)
- American Bar Association (ABA; Patent, Trademark, and Copyright Section)
- State Bar of California (Intellectual Property Section)
- Beverly Hills Bar Association

ARTICLES

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)