



James M. Chadwick

Partner

Palo Alto
379 Lytton Avenue
Palo Alto, CA 94301

Tel: 650.815.2605
Fax: 650.815.2601
jchadwick@sheppardmullin.com

PRACTICE AREAS

- Entertainment, Media and Technology
- Intellectual Property
- Litigation

INDUSTRIES

- Aviation
- Education
- Entertainment, Media and Technology
- Video Game

OVERVIEW

James Chadwick is a partner in the Entertainment, Media and Technology and Business Trial Practice Groups in Sheppard Mullin's San Francisco and Palo Alto offices.

Areas of Practice

Mr. Chadwick's practice focuses on litigation and counseling for media, technology, and online businesses, including copyright, patent and trademark litigation, media, First Amendment and privacy law, and general business litigation. Prior to joining Sheppard Mullin, he was a partner with the firm of DLA Piper Rudnick.

EDUCATION

- J.D. Santa Clara University School of Law, 1991, *summa cum laude*
- M.A., San Francisco State University 1985
- B.A., University of California at Santa Cruz, 1979, *cum laude*

ADMISSIONS

- California

EXPERIENCE

Copyright Litigation

Representation of clients in actions in copyright claims arising from the distribution of print publications, Internet content distribution, and distribution of software. Representative cases include:

Religious Technology Center v. Netcom, et al.

Part of the team that represented Netcom in a seminal cases regarding copyright and the Internet, *Religious Technology Center v. Netcom*, 907 F. Supp. 1361 (N.D. Cal. 1995). The decision of United States District Court Judge Ronald Whyte in this case remains one of the principal cases governing potential liability of internet service providers for the distribution of content posted by users.

Perfect10, Inc. v. GUBA, LLC

Defended internet service that provides World Wide Web interface to Usenet content in copyright infringement action brought by purveyor of pornographic photographs. Brought

in as substitute counsel, and obtained favorable settlement shortly after filing motion for summary judgment based on DMCA defenses.

Nguyen v. San Jose Mercury News

Defended the San Jose Mercury News in copyright infringement action against the Mercury News' Vietnamese-language publication, Viet Mercury. Obtained dismissal of related state law claims, and early favorable settlement.

Paramount Pictures, et al. v. RDestiny, LLC

Defended distributor of video reproduction software in action alleging violation of the anti-circumvention provisions of the DMCA. Obtained early favorable settlement.

Harris v. San Jose Mercury News

Defended the San Jose Mercury News in copyright infringement action brought by photographer whose photograph was used in the Mercury News without permission. Obtained jury verdict in favor of the San Jose Mercury News on fair use grounds, after jury trial. The jury deliberated for less than forty minutes.

Patent Litigation

Representation of client in patent disputes, including the following:

Represented a Silicon Valley computer hardware manufacturer in patent matters, including evaluating and resolving patent infringement claims and counter claims and negotiating cross-licenses with a major competitor, and addressing threatened claims of infringement by an inventor, resulting in the agreement of the inventor not to pursue litigation.

Representation of a video game equipment company in seeking the invalidation of patents improperly filed in China by a Chinese manufacturer.

Represented an video game producer in resolving a patent infringement dispute and obtaining the payment of the settlement by an indemnitor.

Media and First Amendment Litigation

Representation of clients in the litigation of numerous cases that have resulted in important First Amendment or intellectual property decisions, including the following:

Sipple v. Foundation for National Progress

Defended Mother Jones Magazine in a defamation action brought by a prominent political campaign consultant. Motion to strike the complaint pursuant to California's anti-SLAPP statute was granted, the judgment was affirmed on appeal, and attorneys' fees and costs were awarded to Mother Jones.

In re Willon

Represented television reporter and news director in a precedent-setting case regarding

the application of the California Shield Law to investigations of alleged violations of court-imposed gag order. Judgment of contempt against the reporter and news director was reversed.

Montana v. San Jose Mercury News

Represented the San Jose Mercury News in a precedent-setting case establishing that a newspaper's distribution of posters reproducing front pages prominently featuring a celebrity athlete was protected by the First Amendment and California law.

James v. San Jose Mercury News, Inc.

Represented the San Jose Mercury News in an important case regarding the scope of the protection for opinion and the application of the actual malice doctrine under California law. Summary judgment for the newspaper was affirmed on appeal.

Pursuing litigation under state and federal open records and open meetings laws on behalf of both media and individual clients. Cases that have resulted in published decisions include *Lissner v. U.S. Customs Service*, and *San Jose Mercury News v. U.S. District Court*.

Representative Counseling Matters

Copyright and Digital Millennium Copyright Act Compliance: Counseling clients on copyright and DMCA compliance, including: Preparing and advising an online content distribution client on the comprehensive restructuring of its operations to comply with the DMCA safe harbors; preparing or reviewing and revising DMCA compliance procedures and related provisions of online terms of service; reviewing and advising clients on content licensing, software licensing, advertising, and online service agreements.

Privacy Compliance: Counseling publishing, retail and other clients on privacy issues, including: Preparing online terms of service and privacy policies and reviewing privacy and data security practices of online clients; advising clients on privacy issues, such as compliance with government and private litigant demands for information; preparing a comprehensive privacy and legal compliance program for a telecommunications provider.

Trademark and Advertising Compliance: Counseling clients on trademark and advertising issues, including fair use, secondary liability for third party advertising, comparative advertising, and trademark licensing.

HONORS

- Best Lawyers in America, 2008, 2009, 2010, 2011, 2012
- Recognized, First Amendment Litigation & Counseling, Legal 500, 2009
- Northern California Super Lawyers, *San Francisco Magazine*, 2007, 2010, 2011
- James Madison Freedom of Information Award
- One of the country's leading media and entertainment lawyers, Chambers & Partners' 2006, 2008, 2009, 2010, and 2011
- America's Leading Lawyers for Business, Chambers USA

MEMBERSHIPS

- Member, Board of Directors and Executive Committee of the California First Amendment Coalition

- Former chair and current vice-chair, Media, Privacy, and Defamation Law Committee of the Tort Trial and Insurance Practice Section of the American Bar Association
- Member, ABA Forum on Communications Law and the Media Law Resource Center

ARTICLES

- Video Game Law Dealt Fatal Blow, *The Recorder*, July 11, 2011
- *The Law of Online Contracts*, Media Law Resource Center Bulletin "The Ins and Outs of Online Business" (March 2011)
- *Copyright Owners Have The Burden Of Policing*, *The National Law Journal*, August 16, 2010
- *Enjoining the World: Does the Internet Make Prior Restraints Impossible, Or Are They Easier Than Ever?*, Media Law Resource Center Bulletin, June 2010
- *Conflict in the Public Interest: Defamation and the Role of Content in the Wake of Dun & Bradstreet v. Greenmoss Builders*, 31 S. Clara L. Rev. 997 (1991)
- *Potential Liability on the Internet*, Santa Clara County Bar Association, 1995, with Edward P. Davis, Jr. and Judy Alexander
- *Internet Privacy: A Tale of Two Cookies*, ABA TTIPS Media, Privacy & Defamation Law Committee Newsletter, Winter, 2002, with Lan Hang
- *Single Publication Rule Governs Online Publications*, ABA TTIPS Media, Privacy & Defamation Law Committee Newsletter, Summer 2003, with Danielle Van Wert
- *Potential Media Liability for Publishing False or Misleading Advertisements*, ABA TTIPS Media, Privacy & Defamation Law Committee Newsletter, Summer 2004, with Chi-Chi Onyeagbako
- "First Amendment Access and Trade Secrets," in *Trade Secret Litigation and Protection in California*, State Bar of California (2005), with Guylyn Cummins and Noelle Roux
- *MLRC 50-State Survey: Media Privacy and Related Law*, Media Law Resource Center (2005) (Contributor to California survey)
- *Communications Decency Act: Libel Immunity Debate*, ABA TTIPS Media, Privacy & Defamation Law Committee Newsletter, Summer 2005, with Alison Norris
- *Images of Fair Use: A Fair Use Jury Trial*, *Communications Lawyer* (Volume 24/Issue 3-Fall 2006), with Gary Bostwick
- *Images of Fair Use: A Fair Use Jury Trial*, January 3, 2007
- *FTC Behavioral Advertising Privacy Principles Extend Far Beyond Current Requirements*, Media Law Resource Center Bulletin (May 2008)
- *The Copyright Act's Preemption of Right of Publicity Claims*, *Communications Lawyer* (July 2008)

Intellectual Property Law Blog Articles

- "Two Recent Decisions Reframe the DMCA Discussion", October 7, 2008

Law of the Level Blog Articles

- "First Amendment Fire Power: United States Supreme Court Applies Strict Scrutiny, Rejects Ban on Violent Video Games", June 27, 2011

SPEECHES

- Privacy Law conference, presented by the Practising Law Institute, San Francisco, June 2-3, 2008 (presentation focusing on privacy issues in dealing with civil discovery requests and subpoenas)
- New Media Law Roundtable, Sponsored by the San Francisco Recorder, San Francisco, 2002 (presentation focusing on legal challenges for online publishers and service providers, including copyright, DMCA, defamation, and privacy issues)

EVENTS

- Digital Law Forum - Online Business Boot-Up
- Legal Frontiers in Digital Media 2009
- Legal Frontiers in Digital Media
- Trying A Copyright Fair Use Case