



## → Paul W. Garrity

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Paul Garrity is a partner in the Intellectual Property Practice Group in the firm's New York office. He is the former Managing Partner of the New York office, and is also the Co-Chair of lateral partner recruiting for the office.

### Areas of Practice

Paul represents clients in complex commercial matters, particularly in the areas of intellectual property, advertising and marketing, trade secrets and regulatory enforcement. He has counseled clients in diverse industries such as OTC pharmaceuticals, infant formula, alcoholic beverages, media and entertainment, luxury goods, software, consumer products and apparel. Paul's transactional practice includes counseling clients on new media and emerging marketing platforms and technologies.

Paul is *Chambers*-ranked for intellectual property litigation. He has litigated disputes involving patents, trademarks, trade dress, false advertising, trade secrets, copyrights, dilution, parallel imports and counterfeiting, including the defense of consumer class actions. Paul has substantial trial experience, having appeared as first-chair counsel in jury trials, bench trials, and evidentiary hearings in courts throughout the country. Additionally, Paul has represented clients in matters before the Food and Drug Administration, the National Advertising Division of the Council of Better Business Bureaus, the United States Patent and Trademark Office and the World Intellectual Property Organization.

### Honors

Mr. Garrity was a member of the pro bono team at Sheppard Mullin receiving the 2011 Frankel Award from Human Rights First for their successful representation of Abdalmageed Haroun, a prominent human rights activist and former Sudanese prisoner.

*Chambers USA: America's Leading Lawyers for Business* (Leading Individual, Intellectual Property) (2010-2021)

*World Trademark Review*, Listed as a Leading Individual (2016-2021)

*Legal 500*, Intellectual Property (2013-2020)

*New York Super Lawyers* (2009-2021)

### Experience

**Representative Experience:**

*Trividia v. Nipro* (ICC Arbitration 2020)

Counsel to Nipro at trial on claims for trademark infringement involving medical devices.

*Comfort v. Ricola* (W.D.N.Y. 2020)

Defended Ricola in putative class action alleging deceptive trade practices involving labeling claims. Motion to Dismiss granted in part.

*PetIQ v. Merial* (N.D. Ga. 2019)

Trial counsel to pet medicines company asserting breach of contract claims under a patent license agreement. Multimillion dollar verdict at jury trial.

*DigiMedia v. Beasley Broadcasting, Inc. et al.* (D. Del. 2018)

Represented iHeartMedia in a patent infringement suit relating to digital music broadcasting. Following entry of a stay pending outcome of reexamination proceedings in the USPTO, which resulted in substantial amendments to the patents, case dismissed with prejudice by Plaintiff.

*First Manhattan Consulting v. Novantas* (N.Y. Supreme 2017)

Member of trial team defending Novantas and its executives in competitor litigation seeking nearly \$12 million in damages. Following a four day jury trial, secured a verdict finding no liability on contract and tortious interference claims sent to the jury, completed by a ruling from the court on claims for unfair competition and misappropriation of trade secrets.

*Montobacco v. Marley Green* (S.D.N.Y. 2017)

Defending MARLEY NATURAL brand in trademark and unfair competition litigation. Plaintiff's preliminary injunction motion denied.

*Nelson v. MillerCoors* (E.D.N.Y. 2016)

Defended MillerCoors in putative class action alleging deceptive trade practices involving geographic designations used in beer labeling. Motion to Dismiss granted.

*American Well v. Teladoc* (D Mass. 2016; PTAB)

Successful defense of Teladoc, first and largest telehealth platform in the U.S., in computer systems patent litigation. Motion to dismiss granted invalidating asserted patent.

*Merial v. FidoPharm* (N.D. Ga. 2015)

Represented FidoPharm in false advertising litigation brought by Merial in connection with FRONTLINE pet care product. Defense of preliminary injunction motion allowed comparative claims to remain in the market.

*Beastie Boys v. Monster Energy* (S.D.N.Y. 2014)

Trial counsel to iconic hip-hop group in an eight-day trial. Obtained complete jury verdict on claims for copyright infringement and false endorsement.

*Parallel Networks v. Abercrombie & Fitch et al.* (E.D. Tex. 2014)

Represented Sony Electronics in patent infringement suit involving a method and apparatus for client-server communication. Won summary judgment of noninfringement following early claim construction.

*Goodrich Corp. v. Sojitz Aerospace* (Amer. Arb. Assoc. 2014)

Represented United Technologies in claim arising from design and manufacture of reconnaissance system for F-15 aircraft.

*G. Pohl-Boskamp v. Perrigo* (D. Mass. 2013)

Lead counsel for Perrigo in trademark and trade dress litigation re NITROLINGUAL (nitroglycerin). Successful defense of preliminary injunction motion.

*Bayer v. Sergeant's Pet Care* (S.D.N.Y. 2013)

Lead counsel to Sergeant's in false advertising and unfair competition suit brought by Bayer Healthcare involving flea and tick control products. Settlement following expedited discovery and a three day evidentiary hearing on plaintiff's preliminary injunction motion, in which Court ruled for Sergeant's on 7 of the 8 advertising claims targeted by Bayer.

*Imaginal Sys v. Leggett & Platt* (C.D. Cal. 2012, *aff'd* Fed. Cir. 2013)

Trial counsel for Imaginal in patent litigation involving manufacture of box springs. Multimillion dollar verdict at jury trial affirmed on appeal.

*Alcon Pharmaceuticals Ltd. v. Perrigo Co.* (N.D. Tex. 2012)

Lead counsel for Perrigo in ANDA litigation re PATANASE® (olopatadine hydrochloride).

*CIF Licensing v. Lenovo Group* (S.D.N.Y. 2011)

Represented Lenovo in patent infringement suit involving MPEG-2 digital video compression and transmission standards.

*Cartier International AG v. Philippe's Watches* (C.D. Cal. 2011) Represented Cartier and Panarei in action against gray market retailer.

*10th Avenue Hospitality v. AMC Entertainment* (S.D.N.Y. 2010)

Defended leading theater operator and national real estate developer against trademark infringement claims. Successful defense of plaintiff's TRO motion.

*Cartier International AG v. American Exchange* (S.D.N.Y. 2010)

Represented Cartier in trade dress and design patent infringement litigation resulting in destruction of watches, injunctive relief, and disgorgement of profits.

*Rexall Sundown Inc. v. Perrigo* (E.D.N.Y. 2010)

Lead trial counsel for Perrigo, a manufacturer of OTC pharmaceutical and nutritional products, in a four week false advertising jury trial involving glucosamine chondroitin dietary supplements. Jury verdict in Perrigo's favor on all claims asserted by Rexall, and awarding monetary damages against Rexall on Perrigo's counterclaims.

*Bayer Schering Pharma AG et al. v. Sandoz, Inc. et al.* (S.D.N.Y., Dist. Nev. 2009)

Counsel to Sandoz in ANDA litigations re YASMIN® and YAZ® (Drospirenone/Ethinyl Estradiol) oral contraceptives.

*Wyeth v. Novartis Consumer Health* (NAD 2009)

Represented Novartis in advertising challenge before the National Advertising Division of the Council of Better Business Bureaus.

*Physician Formulas v. Orexis* (C.D. Cal. 2009)

Defended nutritional supplement marketer in search engine advertising case. Dismissed following argument of motions *in limine* before trial.

*PortfolioScope v. Oracle* (D. Mass. 2008)

Trial counsel to Oracle Financial Services Software Ltd. in a lawsuit alleging infringement of software source code. Case settled during cross-examination of plaintiff's witnesses at jury trial.

*Net Ratings, Inc. v. TACODA Inc.* (S.D.N.Y. 2009)

Defended leading on-line behavioral targeting advertising network against patent infringement claims. Case dismissed before *Markman* briefing.

## Articles

- Implications of the 2015 Amendments to the Federal Rules on Patent Cases  
*Federal Bar Council Quarterly*, 02.2016
- "Octane Fitness Producing More Patent Act and Lanham Act Attorneys' Fee Awards," *NYSBA Bright Ideas*, Vol. 24, No. 2., Fall 2015
- "Pom v. Coke At The Supreme Court: FDA Approval May Not Preempt False Advertising Challenges To Labels," *The Metropolitan Corporate Counsel*, June 2014
- "High Tide For False Patent Marking Claims?" *Metropolitan Corporate Counsel*, July 2011
- "Legal Ethics and The Social Network," *Social Media Law Blog*, November 2010
- "Advertising Regulation in the Web 2.0 World," *Metropolitan Corporate Counsel*, November 2010
- "Brand Protection on Social Networking Sites," *Search Engine Strategies*, August 2009
- "Valuing Brands: Trying to Make the Vague Precise," *The National Law Journal*, October 13, 2008
- "Did 'Roommates.com' Nix Consumer-Made Web Content?" *New York Law Journal*, May 23, 2008
- "Who Owns The Website?" *The Intellectual Property Strategist*, May 2008
- "Perfect Storm: Contributory Trademark Infringement in Electronic Commerce," *BNA's Patent, Trademark & Copyright Journal*, February 22, 2008

### Covering Your Ads Blog Posts

- "Paid to Post? #FTCAAdvice for Influencers," September 29, 2017

### Notable Quotes

- "Q&A with Sheppard Mullin's Paul Garrity," *Law360*, July 18, 2011

## Media Mentions

Shout-Out: Sheppard Mullin Scores in Unfair Competition Trial  
*The American Lawyer*, 12.21.2017

Beastie Boys Atty Claims Monster Infringement 'Devious'  
*Law360*, 10.17.2014

## Speaking Engagements

"Evaluating the Impact and Evolution of Influencers, Native Advertisers, and Social Media on the Claims Substantiation Landscape," Advertising Claims Substantiation, January 31, 2019

"POM Wonderful v. Coca-Cola," NYSBA Annual Meeting, January 28, 2014

"Advertising in the Digital Age: An Intense Focus on Sweepstakes, Promotions & Social Media," American Conference Institute, September 11-12, 2012

"Social Media Dispute Resolution," Stafford CLE Webinar, August 9, 2012

"Closing Argument, *Christian Louboutin v. Yves Saint Laurent*, The Functionality Doctrine," Honorable William C. Conner Inn of Court, SDNY, April 24, 2012

"Social Media Marketing," Stafford CLE Webinar, September 20, 2011

"Top Litigators Speak: IP Litigation Considerations for Advertisers," American Conference Institute's Advanced IP Forum for Advertising Counsel, New York, April 28, 2011

"Is Grey the New Black? Parallel Imports and Counterfeits in the Online Marketplace," Fashion Law Institute Symposium: Global Growth and Legal Landscapes, Fordham Law, April 15, 2011

"*Orphan Copyright Owners v. Goliath Book Publisher*," The Hon. William C. Conner Inn of Court, April 13, 2011

Guest Lecturer, Georgetown University Law Center, "Law of Advertising," November 2010

"Emerging Trademark Threat @ Twitter, Facebook, MySpace," Stafford CLE Webinar

"Are You Protecting Your Trade Secret Assets," CLE Program, October 29, 2009

"Live From the Courtroom - Trying Consumer Protection and Privacy Litigation," Spring Meeting of the American Bar Association Section on Antitrust Law, Washington, DC, March 26, 2008

## Events

Sheppard Mullin Seminar For The New York Korea Trade-Investment Promotion Agency ("KOTRA")  
Protecting Your Business Interests: How to Successfully Operate a Business Under the Laws of the United States  
08.28.2015

Beware The New Patent Trolls - Strategies For Handling and Avoiding False Patent Marking Claims after *Forest Group v. Bon Tool*  
ABA Section of Litigation - Intellectual Property Roundtable Discussion  
05.18.2010

## Memberships

Connor Inn of Court

American Bar Association

The Association of the Bar of the City of New York

New York Intellectual Property Law Association

International Trademark Association

## Practices

Intellectual Property

Copyrights

False Advertising, Lanham Act and Unfair Competition

IP Licensing, Technology and Commercial Transactions

Patent Litigation

Trade Secrets

Trademarks and Trade Dress

Advertising

Post-Grant Proceedings

Trademark Applications and Prosecution

## Industries

Advertising

Cannabis

Esports & Games

Fashion, Apparel and Beauty

Financial Services

Life Sciences

Private Equity

## Education

J.D., Vermont Law School, 1994

B.A., College of the Holy Cross, 1989

## Admissions

New York

Connecticut

U.S. Court of Appeals – Federal Circuit, Second Circuit

U.S. District Court – Southern, Western, and Eastern Districts of New York