



## Intellectual Property & Technology

One of the greatest challenges in an intellectual property case is translating complex subject matter to a judge, jury or arbitration panel. Susman Godfrey's lawyers are savvy enough to understand technical subject matters and skilled enough to translate them into effective trial presentations—which speaks to why we're at the forefront of the nation's most cutting-edge IP cases. We pursue and defend against copyright and trademark infringement, financial technology disputes, and misappropriation of trade secrets, infringement in jurisdictions across the country—from district court to the Federal Circuit to the International Trade Commission.

### *Representative Experience*

#### Copyright and Trademark

- ***Flo & Eddie v. Sirius XM* and *Flo & Eddie v. Pandora*.** Serving as co-lead counsel representing Flo & Eddie, founding members of 60's music group, The Turtles, along with a class of owners of pre-1972 sound recordings for copyright violations by music provider Sirius XM. Sirius XM agreed to pay at least \$25.5 million (over \$16 million after fees and expenses) and royalties under a 10-year license that is valued up to \$62 million (over \$41 million after fees and expenses) as compensation for publicly performing without a license Pre-1972 sound recordings. Flo & Eddie have a similar putative class action pending against Pandora.
- ***Ferrick et al v. Spotify USA*.** As co-lead counsel, secured a deal worth over \$100 million to settle a class-action lawsuit with music streaming service, Spotify, brought on behalf of music copyright owners. The suit was filed by singer-songwriter, Melissa Ferrick, who sought royalties for songs played by Spotify. Ferrick, along with the class, alleged that Spotify made music available online without securing mechanical rights from the tracks' composers.
- ***VHT v. Zillow*.** Defended Zillow against claims that its web site and mobile applications infringed copyrights in nearly 100,000 photographs of residential real estate photographs contained in listings provided by customers of the copyright owner VHT Inc. The Ninth Circuit affirmed judgment for Zillow on all but a handful of the images and vacated the

award of statutory damages for the remainder.

- **Confidential Digital Software Arbitration.** Obtained an award in which the arbitrator rejected the other side's claims for more than \$500 million under the Digital Millennium Copyright Act and copyright law and injunctive relief in a case involving database software. The arbitrator found that the other side committed fraud and awarded our client \$1.5 million in damages. Susman Godfrey also obtained a declaratory judgment that a trademark asserted against its client was invalid.
- ***New York Mercantile Exchange v. IntercontinentalExchange.*** Won the appeal of a trial court's order granting summary judgment for IntercontinentalExchange, Inc. (ICE), in a copyright infringement case brought by the New York Mercantile Exchange, Inc. (NYMEX) in federal court in New York. NYMEX claimed that ICE violated its intellectual property rights and sued for copyright infringement, service mark infringement, violation of the federal and New York State Anti-Dilution statutes, and tortious interference with contract. The Second Circuit Court of Appeals upheld the dismissal of all of NYMEX's claims against ICE.
- ***Jamail v. GTE Sprint Communications.*** Successfully defended GTE Sprint Communications against a service mark infringement suit brought by *Texaco v. Pennzoil* attorney Joe Jamail. Susman Godfrey persuaded the court to uphold the validity of our client's "Sprint" service mark and to enter a take-nothing judgment against the plaintiff.

## Technology and Fintech

- ***In re Ripple Labs Litigation.*** Appointed by the California Federal Court to serve as co-lead counsel in a securities fraud class action accusing Ripple Inc. of fraudulently offering an unregistered cryptocurrency known as Ripple in its Initial Coin Offering ("ICO") for its XRP token and Ripple's alleged failure to comply with SEC registration requirements.
- ***Audet v. Garza.*** Serving as lead counsel for a class of thousands of investors in GAW Mining LLC who allege that the cryptocurrency mining venture in which they invested was in fact a Ponzi scheme.
- ***Coinlab v. Mt. Gox.*** Representing CoinLab, Inc., the exchange agent for the Mt. Gox cryptocurrency exchange, in a lawsuit in the United States District Court for the Western District of Washington and coordinating with Japanese counsel in bankruptcy proceedings in Japan seeking to enforce a \$50 million liquidated damages clause in the parties' contract after the collapse of the exchange.
- **Confidential Cryptocurrency Matter.** Represented a group of high-profile Silicon Valley angel investors and preferred shareholders in a cryptocurrency and blockchain startup who claimed rights to share in a distribution of tokens under the corporate certificate and their stock purchase agreement. The dispute arose shortly before the company's highly anticipated token launch, when the investors discovered that the company founder had distributed millions of tokens to himself and his

employees without sharing them with his shareholders. Susman Godfrey developed a litigation and settlement strategy that resulted in a confidential settlement worth hundreds of millions of dollars. This strategy quickly resolved the dispute and enabled clients to avoid litigation that could have disrupted the token launch, thereby protecting the value of their substantial investments.

## Trade Secrets

- ***TitleSource v. HouseCanary.*** Won a jury verdict of \$706.2 million for client HouseCanary in a misappropriation of trade secret, fraud and breach of contract case related to HouseCanary's innovative technology for valuation, appraisal and real estate analytics. At the conclusion of the seven-week trial, a 12-person jury found unanimously in favor of HouseCanary against Title Source, an affiliate of Quicken Loans now known as Amrock, Inc., on counterclaims. The court entered judgment of nearly \$740 million. The case is currently on appeal.
- ***Google Waymo v. Uber.*** Represented Uber Technologies in the trade secrets "tech trial of the century" against Google's self-driving car affiliate, Waymo, which sought almost \$2 billion in damages. After being retained just months before trial, the Court granted our motion to strike all of Waymo's experts' damages opinions, leaving Waymo with no damages expert for trial. After Susman Godfrey's public and confidential opening statements, and the presentation of four days of evidence, the case settled favorably. [Read more.](#)
- ***Pascal Metrics v. Health Catalyst.*** Secured \$18.8 million deal for Pascal Metrics after bring trade secret misappropriation claims against Health Catalyst. Pascal is a healthcare analytics company that developed algorithms or "triggers" to identify adverse health events in hospital patients, which defendants used to develop a competing product.
- ***Walmart Trade Secret Litigation.*** Defended Walmart on claims of misappropriation of trade secrets brought by a former vendor. The 8<sup>th</sup> Circuit affirmed the district court's judgment in favor of Walmart on most of the trade secret claims. The remaining award to the former vendor was much smaller than its own attorney's fees. The vendor went bankrupt and sued its own lawyers
- ***Top Agent Network v. Zillow.*** Served as lead counsel to Zillow against allegations of misappropriation of trade secrets, unfair competition, and breach of oral contract based on Zillow's launch of a "Coming Soon" platform to announce pre-MLS listings. After granting Susman Godfrey's original motion to dismiss almost all of the originally alleged claims, the Court granted a further motion to dismiss brought by Zillow, leaving the plaintiff only two remaining claims for misappropriation of trade secrets and breach of oral contract. The case settled after the close of discovery.
- ***GlobeRanger v. Software AG.*** Won a multi-million-dollar verdict in a trade secret misappropriation case involving GlobeRanger's radio frequency identification (RFID) technology, GlobeRanger alleged that

Software AG wrongfully obtained copies of its software system as deployed at Navy depots, reverse-engineered the trade secrets from the GlobeRanger software, and then created a competing software product. After an appeal, the final judgment of over \$18 million amount was paid in full, from which the client received \$11.3 million.

- ***ViaSat v. Loral Space & Communications***. Defended Loral Space & Communications and its former subsidiary, satellite manufacturer Space Systems/Loral (SS/L), in a bet-the-company patent and trade secrets dispute in federal court in San Diego against ViaSat Communications. ViaSat alleged that Loral appropriated its intellectual property in constructing a similar satellite for ViaSat competitor Hughes Network Systems of New Jersey. At trial, Loral was found not liable on all counts, but the jury found SS/L liable for breach of contract and patent infringement on one of the two satellite projects that ViaSat had claimed were infringing. The jury entered a verdict for \$283 million in favor of ViaSat and against SS/L but found there was no willful infringement. However, the Judge later granted SS/L's motion for a new trial on damages, finding that to let the jury verdict stand would be "a miscarriage of justice." The case then settled for a fraction of the jury verdict.
- ***Dillard's v. i2 Technologies***. Defended Dillard's, Inc. from a trade secrets counterclaim when Dillard's sued i2 alleging fraud stemming from enterprise-level supply chain software systems licensed to Dillard's but never delivered as promised. After i2 failed to deliver, Dillard's developed its own, proprietary supply chain software system. i2 counterclaimed for theft of trade secrets alleging that Dillard's proprietary software system contained i2's trade secrets. The jury not only rejected i2's counterclaim but awarded Dillard's \$225 million on its fraud claims, which (including interest) resulted in a \$239 million judgment. The jury verdict was named one of the "Top Ten Jury Verdicts" in the United States that year. The case later settled for \$57 million from which the client received approximately \$42.5 million. (actual amount is \$42,491,882).
- ***UniRAM Technology v. TSMC***. Obtained a \$30.5 million jury verdict (\$36 million after interest and expenses) on behalf of UniRAM Technology, Inc. in a trade secrets case. UniRAM alleged that defendant Taiwan Semiconductor Manufacturing Corp. (TSMC) had misappropriated UniRAM's trade secrets regarding specialized computer memory devices known as embedded DRAM. The case was identified as one of the "Top 10 Plaintiff's Verdicts" that year in California. The case settled on confidential terms while on appeal.
- ***FLOORgraphics v. News Corp.*** Represented FLOORgraphics, an in-store advertising company, in a lawsuit against its principal competitor, News America Marketing, a division of Rupert Murdoch's News Corp. over allegations of violations of the federal Computer Fraud & Abuse Act, the Lanham Act, and claims for business disparagement/trade libel, theft of trade secrets, and other common-law business torts. Susman Godfrey defeated News' motion to dismiss, multiple motions for summary judgment, and attempts to strike FLOORgraphics' experts on damages,

computer forensics, and in-store advertising audit methodology. Following one week of trial in federal court and after FLOORgraphics had presented its first three witnesses, the parties settled the dispute for a confidential amount.

- ***FMC Technology v. ABB Lummus Global.*** Represented ABB Lummus Global Inc. in a lawsuit filed by FMC Technologies, Inc., which alleged, among other things, that ABB Lummus Global had stolen FMC's trade secrets. FMC sought \$90 million in damages. The Court granted a motion for summary judgment filed by Susman Godfrey and dismissed FMC's trade secrets claim in full.
- ***SimDesk Technologies v. First Genesis.*** Successfully represented SimDesk Technologies against First Genesis in a suit alleging misappropriation of trade secrets relating to SimDesk's proprietary server-side applications and server-client communications protocol. Susman Godfrey obtained a temporary restraining order and, after a bench trial, an injunction barring First Genesis from using the software and system at issue.
- ***Sulzer Intermedics, Inc v. Medtronic et al.*** Retained six weeks before trial to defend Medtronic, the nation's foremost developer and manufacturer of pacemakers, against antitrust, civil conspiracy, unfair competition, trade secrets and other tort and breach of contract claims brought by a competitor from whom Medtronic hired several key employees. Susman Godfrey settled the case on confidential terms favorable to Medtronic.