

## Marc J. Rachman

Partner

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### Areas of Focus

Litigation + Dispute Resolution | Advertising Disputes and Challenges | Commercial Litigation | Intellectual Property Litigation | Non-Competes, other Restrictive Covenants, Trade Secrets and Raiding

"I focus on finding practical solutions to protect my clients' intellectual property and their businesses. I know when going to trial is necessary and that not every dispute needs to be fought in court to obtain a favorable outcome."

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### Overview

**Marc Rachman, a partner in the Litigation + Dispute Resolution and Intellectual Property + Media Practice Groups, focuses on intellectual property (IP) counseling and litigation, advertising disputes and challenges, and complex commercial disputes. Marc's experience spans the full range of IP, including trademark, copyright, false advertising, rights of publicity, trade secret and patent infringement disputes. He helps clients of all sizes assess, protect and optimize the value of their intellectual property.**

Insightful and pragmatic, with a deep knowledge of his clients' businesses and industries, Marc gets to the root of a matter quickly with strategic insight and practical solutions. His experience as a media planner before pursuing his legal career gives him a unique perspective when advising on advertising and media matters. Marc represents industry-leading advertising and marketing, financial services, digital media and adtech businesses, world-renowned entertainers, small businesses, and technology startups, among others.

Marc works closely with clients to assert and defend IP infringement claims, provides pre-litigation and litigation avoidance counseling, and advises on the use of IP in advertising, marketing and promotions. He has an impressive record in prosecuting and defending cases, and his knowledge of the courts and the alternative dispute resolution process helps him guide clients in deciding when to fight and when to settle. He is exceptionally swift and effective in resolving IP matters in court, before the USPTO and its Trademark Trial and Appeal Board, and at the negotiating table.

Marc's experience extends to copyright disputes concerning music, photo, pictorial, sculptural and literary works. He has also worked on trademark matters relating to word and design marks, trade dress, and

nontraditional trademarks — including sounds and product designs — as well as celebrity images and personas. In recent years, he has been a driving force in developing and building the firm's niche practice in defending graffiti art copyright infringement claims.

Marc has helped several celebrity clients address online reputation management issues. He also has extensive experience handling complex commercial disputes involving the enforcement of advertising agency-client agreements, digital advertising sales agreements, partnership dissolutions, employment terminations, and restrictive covenants and real estate leasing disputes.

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## Representative Experience

- Helped a celebrity client and trademark owner combat online marketing schemes fraudulently claiming that he endorsed certain medical cannabis/CBD oil products. Strategically filed a trademark, right of publicity and false endorsement action against certain marketers we identified after performing an online forensic investigation of the infringing ads. Identified additional involved parties through our forensic findings and information we obtained through subpoenas. Negotiated confidential settlements to ensure that the infringing activity ceased. We were able to protect the client's reputation, collect settlement payments from infringers and also brought to light the harm to unsuspecting consumers who were misled by the infringing and deceptive marketing tactics.
- Obtained dismissal of an action against an adtech company specializing in technology that blocks malicious online advertising when a competitor sued for alleged trade secret misappropriation. Court granted our motion to dismiss in its entirety, protecting our client's reputation and its most important asset, its technology.
- Won a trial victory for the maker of a line of fuel additives, against a competitor's false advertising claim concerning a comparison ad. Obtained a jury verdict that the company's ad did not violate the Lanham Act or Florida false advertising statutes or laws after convincing the court to limit the plaintiff's potential damages to a maximum of \$25,000, which allowed the company to continue advertising comparisons of their fuel additive's performance with its competitors.
- Represented the estate of a rock icon (Estate) and the company that owns the intellectual property rights globally involving the artist in a matter concerning the unauthorized use of the icon's personas and trademarks in connection with a line of sneakers. Rights to these personas and trademarks are valuable assets of the Estate and the company, which regularly license them in connection with clothing, including sneakers. Resolved this matter on confidential terms with a favorable outcome for our clients, without the matter escalating into major litigation.
- Defended a major national specialty retailer that sells designer clothing, accessories and other luxury goods, in a putative consumer class action alleging that consumers were given deceptive pricing on their off-price website. Plaintiffs voluntarily dismissed their case prior to discovery after we moved to dismiss the action.

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## Insights + Events

### Alert

Natural Selection: NY Federal Court Dismisses “Natural” Personal Care Claims, Decertifies Class  
February 21, 2024

### **Alert, Emerging Issues**

Will the Hot Bot Summer Cool Off This Fall?

October 17, 2023

### **Alert**

Is the Legal Test for Expressive Use of a Trademark on The Rocks? Jack Daniel's Prevails at the Supreme Court

July 25, 2023

### **Event**

Global Advertising Lawyers Alliance (GALA) | Challenging Misleading Competitor Claims

June 27, 2023

### **Alert**

Sanctions Against Google Show Importance of Litigation Document Preservation

June 5, 2023

### **Alert, Risk and Reward in Cannabis Financing**

Key Influences on the Cannabis Market in 2023

April 20, 2023

### **Alert**

The Training Wheels are Off: The Copyright Implications of Training Generative AI

March 1, 2023

### **Event**

Massachusetts Continued Learning Education | ADA & Website Accessibility

November 3, 2022

### **Alert**

How to Handle ADA Website Accessibility Claims

September 23, 2022

### **Trends in Marketing Communications Law**

The ABCs of Software IP

April 13, 2022

### **Publication**

Practical Law | Trademark Laws: New York

December 3, 2021

### **Checklist, New Workforce Models Come With New Risks**

Top 10 Considerations: Document Retention and E-discovery in the Remote Work Environment

October 11, 2021

### **Event**

Massachusetts Continuing Legal Education, Inc. | ADA & Website Accessibility

October 5, 2021

## Event

New York City Bar Association | Trade Secrets Claims at the Pleading Stage  
September 9, 2021

## Alert

Supreme Court Finds Google's Copying of Oracle's APIs a Fair Use  
June 3, 2021

## Alert, Uptick in Consumer Class Actions as Online Purchases Grow

Supreme Court Narrows Definition of Autodialer in Facebook Ruling  
April 2, 2021

## Trends in Marketing Communications Law

Patent Troll Activity Likely to Continue to Rise  
October 6, 2020

## Alert, Uptick in Consumer Class Actions as Online Purchases Grow

"Grand Finale?" — Supreme Court to Address the Definition of "Automatic Dialer" Under the TCPA  
September 30, 2020

## Alert

Best Practices for Litigating in the Virtual World  
April 28, 2020

## FAQ

Coronavirus (COVID-19) New York Courts  
March 30, 2020

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## Credentials

### Education

Boston University (J.D., *cum laude*, 1993)  
Cornell University (B.S., with honors, 1986)

### Distinctions

- *The Best Lawyers in America*® 2024, Litigation – Intellectual Property
- *Chambers USA: America's Leading Lawyers for Business*® 2014-2023, New York Intellectual Property: Trademark, Copyright & Trade Secrets
- *The Legal 500 United States*® 2012-2014 and 2016-2023, Intellectual Property: Copyright
- *New York Metro Super Lawyers*® 2012-2023, Business Litigation

## Bar Admissions

New York

New Jersey

## Court Admissions

U.S. District Court Southern District of New York

U.S. District Court Eastern District of New York

U.S. District Court District of New Jersey

U.S. District Court Northern District of California

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## Associations

Member, New York City Bar Association

— Member, Technology Committee

— Member, E-Discovery Sub-Committee