



Partner,
Intellectual Property

Kirkland & Ellis LLP

New York, New York
t: 212-446-4989
f: 212-446-6460

joshua.simmons@kirkland.com

Joshua L. Simmons

Representative Matters by Industry

Table of Contents

Computer and Communications.....	2
Consumer and Leisure Products.....	5
Financial Services.....	7
Health Care and Pharmaceuticals.....	8
Media and Entertainment.....	9
Other Industries.....	12

Joshua L. Simmons

Computer and Communications

- *Oracle Am., Inc. v. Google Inc.* (Fed. Cir./U.S. Supreme Court): Obtained reversal in Oracle's highly publicized appeal of a district court order finding elements of its Java Application Programming Interfaces, which Google admitted to have copied when creating its Android operating system, uncopyrightable, as well as a remand for further proceedings on the issue of fair use.
- *Oracle Am., Inc. v. Google Inc.* (Fed. Cir.): Representing Oracle in its appeal from the remand fair use trial mentioned above.
- *Fox News Network, LLC v. TVEyes Inc.* (S.D.N.Y./2d Cir.): Won summary judgment, obtained permanent injunction, and prevailed on appeal for Fox News in a copyright infringement action against a media monitoring service. The Second Circuit held that permitting users to view video clips of telecasts was not fair use and constituted volitional conduct leading to direct infringement liability.
- *Bitetto v. Rometty* (N.D.N.Y.): Lead counsel who obtained dismissal for IBM's CEO in a copyright and unfair competition action alleging infringement of a book describing a brain-inspired microchip.
- *IpLearn LLC v. K12 Inc.* (D. Del.): Defended K12 and won multipatent infringement action involving computer-assisted learning technology, resulting in the parties stipulating to the dismissal of one patent as not infringed, and the other patent being held invalid on summary judgment because it was directed to unpatentable subject matter.
- *LivePerson, Inc. v. 24/7 Customer, Inc.* (S.D.N.Y./N.D. Cal.): Representing LivePerson, an online messaging, marketing, and analytics technology company, in a lawsuit against 24/7 involving trade secret, copyright, breach of contract, business tort, and false advertising claims. Also, representing LivePerson in a subsequently filed patent infringement lawsuit brought by 24/7.
- *IBM Corp. v. Teraproc Inc.* (S.D.N.Y.): Representing IBM in a copyright infringement, trade secret misappropriation, and business tort lawsuit concerning the alleged copying by IBM's former employees of proprietary source code for a load sharing facility used in high-performance computing.
- *Syntel Sterling Best Shores Mauritius Ltd. v. TriZetto Grp., Inc.* (S.D.N.Y.): Representing TriZetto and Cognizant Technology Solutions Corp. in a copyright, trade secret, unfair competition, and breach of contract litigation concerning healthcare software and related software consulting services.
- *Oracle Am., Inc. v. State of Oregon* (9th Cir.): Represented Oracle in an appeal concerning Oregon's unauthorized use of a health insurance exchange created by Oracle; the issues on appeal include the constitutionality of the Copyright Remedy Clarification Act, which abrogates state sovereign immunity for civil copyright infringement, and the effectiveness of a sovereign immunity waiver clause. A settlement was reached after Oracle filed its principal brief and received amicus support from several industry organizations and thought leaders.

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- *Advice Interactive Grp., LLC v. Web.com Grp., Inc.* (M.D. Fla.): Defended Web.com in a copyright, trade secret, unfair competition, and breach of contract lawsuit concerning web-based analytics software.
- *Cisco Systems, Inc. v. Arista Networks, Inc.* (N.D. Cal./I.T.C.): Represented Cisco in a multiforum copyright and patent infringement litigation concerning Arista's use and copying of Cisco's proprietary command line technology.
- *Ericsson Inc. v. Samsung Electronics Co.* (E.D. Tex./I.T.C.): Represented Samsung in a multipatent, multiforum litigation—including back-to-back ITC trials—involving GSM, W-CDMA, LTE and 802.11 (Wi-Fi) wireless telecommunication standard essential patents, including claims concerning commitments to license on fair, reasonable and non-discriminatory (FRAND) terms and conditions.
- *JobDiva, Inc. v. Monster Worldwide, Inc.* (S.D.N.Y.): Represented JobDiva in a multipatent infringement action involving resume search technology.
- Represented Zebra Technologies in trademark enforcement matters.
- Counseling multinational computer technology company on legislative and regulatory copyright policy issues.
- Advising organization with regard to its alleged infringement of copyrights in typeface software.
- Counseled American data communications and telecommunications equipment provider on potential copyright and trade secrets claims related to its software offerings and telecommunications signaling.
- Advised hospitality industry software service company on its copyright portfolio and potential infringements thereof.
- Counseled audio, visual, and voice technology company on its copyright portfolio.
- Advised worldwide IT company in developing its copyright registration program.
- Counseled high-tech product manufacturing company regarding enforcement of software licensing terms.
- Provided trademark advice to startup company.
- Advised multinational technology and consulting company regarding new service that utilizes web crawling technologies.
- Counseled cloud-based data and analytics service regarding intellectual property issues related to web crawling and real-time content acquisition.
- Advised U.S. software company on copyright-related tax issues.
- Prepared social media presentation for multinational technology company.
- Counseled multinational technology and consulting company on copyright issues related to new software as a service offering.

Joshua L. Simmons

- Prepared congressional testimony for multinational computer technology company related to U.S. House of Representatives copyright review process.
- Advised teaching equipment company on trademark prosecution matters.
- Counseled social recruitment and job distribution network on trademark issues.

Joshua L. Simmons

Consumer and Leisure Products

- *Bath & Body Works Brand Mgmt., Inc. v. Summit Entm't, LLC* (S.D.N.Y.): Defended BBW against claims by the producer of *The Twilight Saga* film series that BBW's Twilight Woods product line infringes Summit's trademark rights, including defeating Summit's motion for summary adjudication.
- *Hage v. Shenzhen Xiaohuangfeng Trading Co.* (T.T.A.B.): Achieved a sustained opposition and refusal of Shenzhen's trademark application.
- *Converse, Inc. v. International Trade Commission* (I.T.C./Fed. Cir.): Representing Converse in an administrative proceeding and subsequent appeal seeking to bar various defendants from importing into the United States footwear that infringes and dilutes Converse's famous midsole trademark for its Chuck Taylor All Star shoes.
- *Drybar Holdings LLC v. PetSmar Inc.* (C.D. Cal.): Representing Drybar in a trademark and trade dress infringement lawsuit concerning an unauthorized pet-oriented brand extension of Drybar's product line.
- *Express, LLC v. Forever 21, Inc.* (9th Cir.): Negotiated dismissal of appeal and previously litigated district court case on behalf of Express.
- *popham design, SARL v. F. Schumacher & Co.* (D. Mass.): Lead counsel for Schumacher and Mary McDonald, Inc. in a copyright infringement lawsuit concerning cement tile and textile designs.
- *Car-Freshner Corp. v. DIRECTV, Inc.* (N.D.N.Y.): Defended DIRECTV in a trademark infringement suit arising out of its use of a pine tree-shaped air freshener in a promotional campaign for its satellite service.
- *NES Rentals* (W.I.P.O.): Obtained multiple transfer orders in domain name disputes under ICANN's Uniform Domain Name Dispute Resolution Policy.
- Representing F. Schumacher & Co. in copyright enforcement matters concerning unauthorized use of its textile designs.
- Advising F. Schumacher & Co. on its trademark portfolio related to its textile design business.
- Counseled American multinational footwear and apparel designer on copyright policy issues related to its famous brands.
- Prepared license agreements for non-profit historical society.
- Counseled innovative, luxury furniture and lighting boutique on copyright and trademark issues relates it to its IP portfolio and infringing use thereof.
- Advised home technology product company on social media policy.
- Counseled product database company on copyright enforcement issues.
- Advised toy manufacturer in trademark enforcement dispute.
- Represented luxury goods producer in copyright and trademark enforcement matter.

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- Counseled pet food company on social media-related issues.
- Advised global consumer products company on social media issues.
- Counseled luggage and accessories maker in negotiations with its licensor.
- Advised cargo moving company on copyright and trademark issues involved in adding advertising functionality to its website.

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Financial Services

- *A.M. Best Co. v. SNL Financial LC* (D.N.J.): Represented A.M. Best in a copyright infringement and breach of contract action concerning SNL's copying and distribution of A.M. Best's ratings as part of its online database product.
- *Syntel Sterling Best Shores Mauritius Ltd. v. TriZetto Grp., Inc.* (S.D.N.Y.): Representing TriZetto and Cognizant Technology Solutions Corp. in a copyright, trade secret, unfair competition, and breach of contract litigation concerning healthcare software and related software consulting services.
- Represented Bain Capital on trademark matters in connection with its acquisition of the Apple Leisure Group.
- Drafted social media policy for private equity firm's portfolio companies.
- Advised commercial real estate finance company regarding copyright enforcement issues.
- Represented donation service for charities in copyright enforcement matter.
- Counseled global private equity investment firm on potential acquisition of content delivery network.
- Advised global private equity firm on potential acquisition of a moving and storage company.
- Counseled global private equity firm on copyright issues related to its potential acquisition of a social media platform.
- Advised global hedge fund and asset management company on intellectual property issues related to web scraping.
- Counseled global hedge fund and asset management company on intellectual property issues related to internal computer systems.
- Advised global investment manager on intellectual property issues associated with web scraping.
- Counseled investment firm on trademark protection matters.

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Health Care and Pharmaceuticals

- Represented global biopharmaceutical company in advertising disputes with competitor pharmaceutical company.
- Investigated global biopharmaceutical company's advertising substantiation related to new pharmaceutical compound.
- Counseled multinational pharmaceutical company on advertising issues related to social media campaigns.
- Guided multinational pharmaceutical company through copyright and trademark issues concerning a world-wide social media campaign.
- Counseled worldwide health care and personal product producer on social media issues.

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Media and Entertainment

- *Fox News Network, LLC v. TVEyes Inc.* (S.D.N.Y./2d Cir.): Won summary judgment, obtained permanent injunction, and prevailed on appeal for Fox News in a copyright infringement action against a media monitoring service. The Second Circuit held that permitting users to view video clips of telecasts was not fair use and constituted volitional conduct leading to direct infringement liability.
- *Alexander v. Murdoch* (S.D.N.Y./2d Cir.): Obtained dismissal and won appeal for Fox Entertainment Group, along with other defendants, in a lawsuit alleging that Fox's *Modern Family* television series infringes the plaintiff's copyright in his treatment and proposed pilot script, as well as other state law rights.
- *Wolstenholme v. Hirst* (S.D.N.Y.): Obtained dismissal for prominent artist Damien Hirst and Other Criteria (US), LLC in a copyright infringement, trade dress infringement, and unfair competition lawsuit concerning pharmaceutical pill-inspired jewelry created by Mr. Hirst.
- *Tetris Holding, LLC v. Xio Interactive Inc.* (D.N.J.): Won summary judgment for the makers of the world-famous "Tetris" electronic game in a copyright and trade dress lawsuit against an infringing game maker.
- *Fairey v. Associated Press* (S.D.N.Y.): Won summary judgment for the AP on the issue of fair use in a declaratory judgment suit brought by Shepard Fairey, in which the AP asserted copyright infringement claims, among others, arising out of his unauthorized use of the AP's photo of President Obama to create a poster and commercial merchandise.
- *Solid Oak Sketches, LLC v. 2K Games, Inc.* (S.D.N.Y.): Defending 2K Games and Take-Two Interactive Software Inc. in a lawsuit alleging that they committed copyright infringement by accurately depicting the tattoos of three NBA players in their *NBA 2K16* video game, including winning a motion to dismiss Solid Oak's statutory damages and attorney's fees claims and defeating Solid Oak's motion to dismiss Take-Two's counterclaims seeking declaratory judgments of *de minimis* and fair use, as well as fraud on the Copyright Office.
- *de Becdelievre v. Anastasia Musical, LLC* (S.D.N.Y.): Defending the producer of the Broadway musical *Anastasia* and Tony Award winning playwright Terrence McNally against a copyright claim brought by the heir to the estate of Marcelle Maurette, who had written a dissimilar straight play concerning the same historical subject matter.
- *Taymor v. 8 Legged Productions, LLC* (S.D.N.Y.): Defended the producer of the Broadway musical *Spider-Man: Turn Off the Dark* against copyright, breach of contract and other claims brought by the show's former director, Julie Taymor.
- *Car-Freshner Corp. v. DIRECTV, Inc.* (N.D.N.Y.): Defended DIRECTV in a trademark infringement suit arising out of its use of a pine tree-shaped air freshener in a promotional campaign for its satellite service.
- *Cengage Learning, Inc. Bankruptcy* (Bankr. E.D.N.Y.): Advised Cengage Learning on copyright issues related to its Chapter 11 bankruptcy.

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- Representing well-known author J.K. Rowling in copyright and trademark matters relating to the popular *Harry Potter* book series and films, including protecting the famous works against infringement on the Internet.
- Representing Twentieth Century Fox Film and Twentieth Century Fox Television in various copyright and trademark matters, including enforcement matters concerning the popular television series *Modern Family*.
- Represented Fox News Network in copyright and trademark enforcement matters concerning unauthorized use of its content.
- Represented Big Think in a copyright enforcement matter concerning the unauthorized use of its content in an advertisement.
- Prosecuted trademark applications for Jamtown, LLC, the Bay Area's first premium basketball destination.
- Counseled the makers of the world-famous "Tetris" electronic game in copyright and trademark matters related to their puzzle game.
- Advising international entertainment creator, producer, and distributor on copyright and right of publicity issues involving its prime time, serial drama, and factual entertainment brands.
- Counseling professional sports organization on copyright and trademark enforcement matters.
- Advised American video game publisher on potential acquisition of copyright and trademark portfolio of first-person action role-playing video game.
- Represented television production company in trademark enforcement matter.
- Advised film and television company in copyright and trademark enforcement matters.
- Counseled theatrical organization in its negotiation of a joint venture agreement.
- Negotiated royalty-free trademark licensing agreement on behalf of nonprofit organization in order to resolve trademark infringement dispute.
- Counseled live entertainment company regarding musical production based on pre-existing motion picture.
- Advised multinational electronic game publisher on intellectual property issues related to the publication of a new comic book series.
- Counseled newspaper publisher on copyright and trademark matters.
- Advised mass media company in copyright matters relating to potential new products and competitors' infringing products.
- Counseled cloud-based publication platform on First Amendment issues.

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- Advised producers of theatrical production on copyright licensing matters.
- Counseled theatrical producers on contract and copyright licensing matters.
- Counseled rock band on re-negotiation of music contract.

Joshua L. Simmons

Other Industries

- Prosecuted trademark applications for 50 Bowery Holdings LLC, including its 50 BOWERY service mark for its boutique, Manhattan hotel.
- Counseled non-profit organization on its trademark portfolio and potential infringement thereof.
- Advised private K–8 school in copyright and trademark dispute involving the transfer of the school’s domain name and website from a former board member.