



Debevoise
& Plimpton

Intellectual Property

Recognized Leaders

www.debevoise.com

“Band 1 firm for Intellectual Property: Trademark,
Copyright & Trade Secrets in the United States.”

—*Chambers Global and Chambers USA*

“Top tier for Intellectual Property”

—*Benchmark Litigation*

“Top tier for Trademarks: Litigation.”

—*Legal 500 US*

“2015 Intellectual Property
Practice Group of the Year.”

—*LAW360*

“Trademark Contentious ‘Firm of the Year’ in
five of the past ten years.”

—*Managing Intellectual Property*

“One of only three firms to appear on
The American Lawyer’s “A-List” each
year since its inception”

—*American Lawyer*

“Nationally Ranked in
Advertising Litigation”

—*Chambers USA*

“An industry leader in intellectual
property with an outstanding set of
litigators.”

—*World Trademark Review*

A Formidable Presence in Intellectual Property

Debevoise & Plimpton has one of the nation's leading Intellectual Property practices.

Our team has developed a stellar reputation for handling the most difficult cutting-edge cases, transactions and counseling projects in trademark, copyright, advertising, right of publicity, privacy, technology, and related matters. We not only litigate leading cases around the country, but we also are thought leaders, teaching and writing on intellectual property law, advocating for regulatory and legislative improvements in the law, and promoting efficient alternative dispute resolution mechanisms for intellectual property cases.

Our teams help clients win: achieving courtroom victories and efficient, business-friendly solutions to novel legal challenges across a wide range of industries, including beverage and food, broadcast television, consumer products, cosmetics, fashion, financial services, Internet, motion pictures, pharmaceuticals, professional sports, publishing, recorded music, retail, technology, and telecommunications.

Clients benefit from lean, highly experienced and expert teams that offer thorough analysis of the law, refined to its most practical application.

Finding the right business answer is always the priority.

Trademark & Unfair Competition

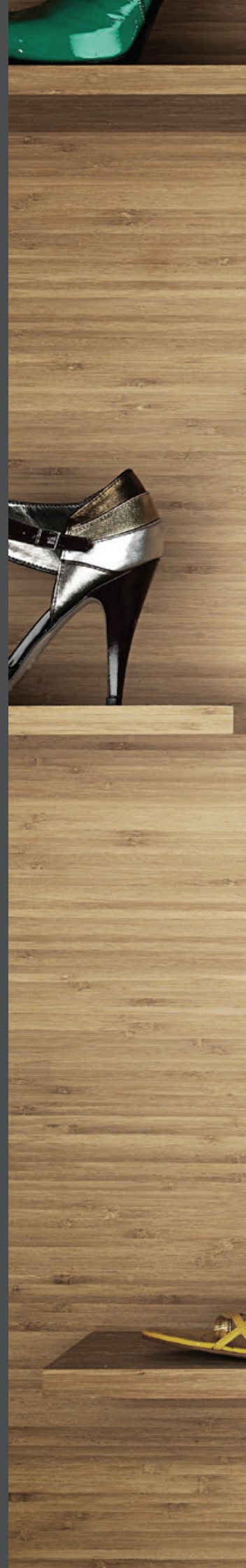
“The firm that I want as my top-notch litigation counsel and partner in a trademark infringement suit”

Our team, led by David Bernstein, protects the world’s highest-profile brands in complex trademark disputes around the globe.

We have extensive experience litigating the most difficult trademark, trade dress, unfair competition, and anti-counterfeiting cases, including both obtaining and defending against temporary restraining orders and preliminary injunctions, and at trials that often are conducted in expedited time frames. We examine all available arguments and defenses, including invalidity of marks, likelihood of confusion and/or dilution, fair use, functionality, crowded fields, First Amendment, fraud, and the equitable defenses of laches, unclean hands, and estoppel. We also have unique knowledge related to the design, supervision and critique of consumer perception surveys, which often play a vital role in trademark, trade dress and advertising cases, having been involved in the design or critique of hundreds of surveys conducted by dozens of the nation’s leading survey experts. We represent clients in state and federal courts - up to the Supreme Courts - and before the Patent and Trademark Office, Trademark Trial and Appeal Board, International Trade Commission, and domestic and international arbitral tribunals.

Our team prides itself on its deep knowledge of our clients’ industries and businesses. When it suits the client’s objectives, we work to find creative solutions well before trial. But we are trial lawyers first, always ready to win in court.

In addition to our litigation experience, we regularly advise clients in the clearance of rights and the selection, development, acquisition, registration, and protection of trademarks, trade dress, and trade names.





In a case that was vigorously tried both in the court of law and at the court of public opinion, we successfully defended Yves Saint Laurent's right to produce red shoes by defeating a motion for a preliminary injunction filed by Christian Louboutin, which held a U.S. trademark registration for use of a red sole on women's high-heeled shoes. We successfully defended that victory on appeal, winning a complete dismissal from the U.S. Court of Appeals for the Second Circuit, and then prevailed in a subsequent proceeding in the Trademark Office where we obtained a critical limitation to the Louboutin trademark registration.



In a major precedential decision clarifying the standard used to evaluate whether a trademark is generic, we represented Snyder's-Lance before the Court of Appeals for the Federal Circuit in obtaining reversal of the TTAB's decision that PRETZEL CRISPS is a generic term.



Following a five-day trial, Debevoise won a decisive verdict for Kate Spade & Co. which ensured its right to use the trademark Kate Spade Saturday despite a challenge from Saturdays Surf, a popular clothing line that claimed the exclusive right to use SATURDAY in connection with clothing.



In a series of litigations over a decade that included a multiday evidentiary hearing focused on the complexities of Soviet and Russian law, dismissals by two different district judges, two appeals to the Second Circuit, and a petition for certiorari to the Supreme Court, Debevoise achieved a complete victory for our client Pernod Ricard in obtaining dismissal of ownership claims filed by a Russian Federation entity related to the Stolichnaya trademark. While a third appeal was pending, Debevoise negotiated a highly-favorable resolution that permanently removed our client from any future claims related to this ongoing dispute.

David Bernstein is a “rockstar,” “just incredible in terms of strategic planning” and “indisputably one of the very best trademark lawyers in the country.”

Copyright

“Debevoise has built an outstanding reputation as a heavyweight in copyright litigation.”

Our copyright practice, led by Jeffrey Cunard, spans our litigation (including enforcement and defense), licensing, corporate and counseling practices. We offer full-service protection for clients that are seeking to build, enhance, and defend the value of their copyright assets, as well as clients that use copyrighted materials. Our lawyers work both on enforcing copyrights and on cutting-edge litigation at the intersection of copyrights and technology. We have played a significant role in seminal copyright cases, including before the United States Supreme Court, and regularly advise clients on a wide range of matters, including the acquisition and licensing of copyrighted materials, publishing and development agreements, technological and product developments and issues of fair use and the application of the Digital Millennium Copyright Act.

We cover the full spectrum of copyright matters in the content development, retail, technology and not-for-profit sectors, including motion pictures, television, visual art, music, literature, computer software, packaging and fashion design.



We represented NBC Universal, CBS Broadcasting and Disney/ABC in precedent-setting copyright litigation involving the public performance right, in successfully challenging Aereo's unauthorized streaming of broadcast television programs over the internet using thumbnail-sized antennas. We helped secure an ultimate victory for our clients at the U.S. Supreme Court, which held that Aereo's service was infringing. *The New York Times* dubbed the case one that "will shape TV's future."



We represented five major U.S. book publishers in bringing a copyright infringement action challenging Google's mass digitization of books from U.S. libraries into its Google Library Project, making them searchable and offering users "snippets" of the books. We negotiated a widely-publicized settlement agreement that would have established new business models among publishers, authors and Google. Although that landmark class action settlement agreement ultimately was not approved by the court, we subsequently negotiated a successful settlement for our clients.



We were retained by Costco Wholesale to represent it before the United States Court of Appeals for the Ninth Circuit in long-running copyright litigation asserting that it was infringing Swiss watchmaker Omega SA's copyright in a tiny globe design engraving on the back of the watches that Costco had bought on the "gray market" and was selling in the U.S. We were successful in the appellate court affirming the district court's judgment for Costco, which included a precedent setting concurrence that Omega had engaged in copyright misuse.

Jeffrey Cunard is 'very knowledgeable'

Advertising

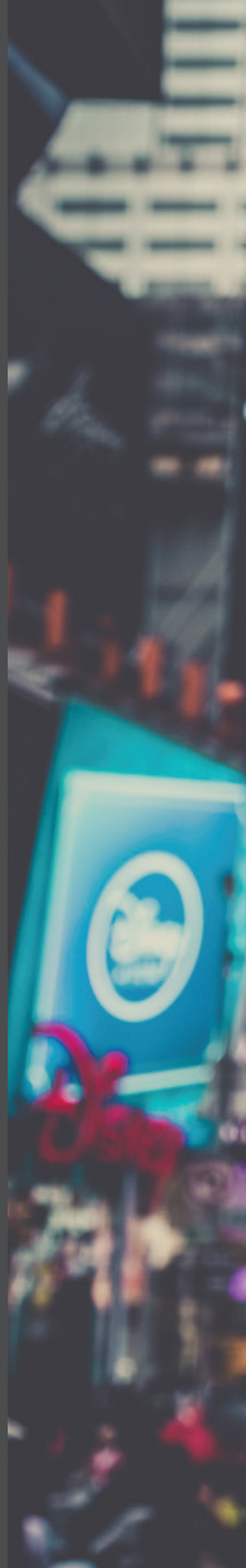
“Renowned for its litigation capabilities and displays significant experience in the handling of advertising disputes.”

Led by David Bernstein, Jeremy Feigelson and Michael Schaper, our team of advertising lawyers have decades of experience in handling every part of the legal aspects of advertising campaigns. From designing substantiation studies to vetting advertising copy to defending ads before regulators to litigating false advertising disputes in court and before the FTC, NAD and television networks, our team has deep familiarity with every stage of an advertising campaign and an advertising challenge.

We pride ourselves on a practical, business-oriented approach to advertising advice, and often work with scientists in a wide variety of fields to substantiate clients' advertising claims and to expose the weaknesses in competitors' claims. Our team partners with clients to develop hard hitting, but defensible, ads to help them win market share.

Thanks to this experience, we have an enviable track record of success. Debevoise lawyers have won and defeated motions for preliminary injunctions, efficiently resolved class action advertising cases, defended against regulatory investigations in the advertising arena, and prevailed in more than 100 matters at the NAD.

In addition to our litigation prowess, we regularly speak at the nation's leading conferences on advertising law and have authored the leading treatise in advertising law in the United States.





L'ORÉAL

We successfully represented L'Oréal USA, Inc. in multiple class actions, as well as FTC and FDA investigations, related to claims that anti-aging skin care products from the company's Lancôme and L'Oréal Paris product brands do not perform as advertised.

AMERICAN
EXPRESS

For more than a quarter century, we have represented American Express in advertising disputes against its major competitors (including Visa, MasterCard and Discover) and against banks and other parties that issue competing credit cards. Both in court and at the NAD, we have successfully challenged claims that disparaged the acceptance of the American Express card, have forced the abandonment of claims that exaggerated the benefits of other cards, and have defended claims touting the superiority of the services provided by American Express.


NOVARTIS

In a precedent-setting advertising dispute that created new law on the substantiation of advertising claims, Debevoise won a preliminary injunction against Mylanta NightTime on the ground that the name deceptively implies that the product was specially designed for nighttime heartburn and would prevent heartburn all night long. Debevoise successfully defended that injunction on appeal before the Court of Appeals for the Third Circuit, and beat back a request for rehearing en banc and for certiorari.

Entertainment & Media

Our lawyers have broad knowledge and experience on a range of issues affecting the entertainment and media industries, covering both litigation and transactional matters. We regularly provide advice and aggressively and effectively litigate a variety of issues impacting the industry, such as the right of publicity, defamation, First Amendment and the licensing, sale, distribution and transfer of rights, as well as other business or contractual disputes. We also counsel our corporate clients and litigate in the increasingly busy area of employment-related defamation matters.

Our team, led by Jeremy Feigelson and Michael Schaper, prides itself on truly understanding the business of entertainment and our creative, solution-oriented and responsive approach to each matter.





We won a major victory at the summary judgment stage for the National Football League in a case brought by retired NFL players seeking to enjoin and be compensated for the NFL's continued use of game action footage taken during their playing careers. We also successfully settled a class action involving the same claims. Summary judgement and approval of the settlement were both affirmed by the Eighth Circuit.

TimeWarner

We obtained summary judgment dismissing a libel suit brought by Donald J. Trump against our clients, Time Warner Book Group and *New York Times* editor Timothy L. O'Brien, involving the book *TrumpNation: The Art of Being The Donald*.



In the first New York case to address right of publicity claims within video games, we secured dismissal of two cases brought by Lindsay Lohan and another celebrity against Take-Two Interactive Software concerning the alleged use of their likenesses in the Grand Theft Auto video game.

“You wouldn’t want to spill any blood in the water with these guys around. They are tough, efficient and highly effective trial lawyers.”

Domain Name Disputes

We have earned a reputation for being both “dedicated and experienced” and “an excellent IP firm packed with top-notch litigators.”

From the start of the commercial Internet, Debevoise has been a key advisor to clients worldwide on the development of their Internet strategy. From the protection of content and brands online, to defense against online counterfeiting, to the cutting-edge issues created by new gTLDs, Debevoise lawyers are at the forefront of advising clients on practical strategies for IP protection in the digital age.

When it comes to domain names, our experience with the Uniform Domain Name Dispute Resolution Policy is unmatched. Debevoise lawyers are intimately familiar with the UDRP because they consulted with WIPO on the development of the UDRP, and David Bernstein is one of the world’s leading UDRP panelists, having written hundreds of decisions that have shaped key aspects of domain name law. Drawing on this experience, the Group has recovered hundreds of cybersquatted domain names for its clients.





We represented Kibar, a major Turkish conglomerate, and The Law Society of the United Kingdom in litigations in U.S. courts filed in an effort to block those brand owners from implementing their UDRP victories. In both cases, we quickly resolved the litigations and were successful in helping those clients recapture their eponymous domain names.



We represented the National Hockey League in a UDRP complaint against a cybersquatter that had posted a pornographic website at a domain name incorporating the Philadelphia Flyers trademark.



Debevoise assisted the Educational Broadcasting Corporation in research, drafting, and filing of Uniform Domain Name Dispute Resolution proceedings against cybersquatters who control domain names incorporating trademarks owned by WNET.

“The Preeminent” David Bernstein has “a larger-than-life reputation in this profession and he’s the real deal. He has an unmatched knowledge base, but also brings a ton of energy to his practice.”

Trade Secrets & Restrictive Covenants

Our team, led by Jyotin Hamid, has extensive experience on both sides of disputes involving trade secrets, executive restrictive covenant agreements, and other legal issues that arise when companies hire top executive talent from the competition. We have been successful in both obtaining and defeating motions for temporary restraining orders and preliminary injunctions, as well as motions for expedited discovery aimed at quickly preventing the movement of key teams and business leaders and preserving confidential business information.

We also provide strategic advice to help clients in a broad range of industries protect their human capital, business relationships, confidential information and trade secrets. Our team works closely with the Employee Benefits & Executive Compensation Group to navigate group hires and to draft confidentiality, non-compete, non-solicit and employment agreements, and related employer policies aimed at securing confidential and proprietary information.





THE CARLYLE GROUP

On behalf of Carlyle, we successfully defeated motions for a temporary restraining order and for a preliminary injunction, and we ultimately obtained dismissal of the complaint, in a case alleging that Carlyle launched a portfolio company based on a business plan “stolen” in violation of a non-disclosure agreement.



We are representing PowerTeam Services in a cluster of actions against former executives who have launched competing businesses in violation of their restrictive covenants and confidentiality agreements, and we have obtained injunctive relief in several of those matters.



Following a three-day trial, we obtained an injunction on behalf of Misys International against individuals who sold a proprietary software business to Misys and later launched a competing enterprise based on a substantially similar software.

Jyotin Hamid is “very reflective and responsive, a good listener, an excellent writer and good at interpreting what [clients] are trying to accomplish.”

Intellectual Property Transactions

“What we really like about Debevoise is that all the lawyers tend to be very commercial. They drive the corporate transaction by shaping the question and the dialogue.”

Our team, led by Jeffrey Cunard and Henry Lebowitz, represents domestic and international clients who acquire and sell businesses that own intellectual property, including patents, copyrights, trademarks and trade secrets, and that license, sell, purchase, and develop intellectual property.

Our practice encompasses intellectual property aspects of mergers, acquisitions, divestitures, initial public offerings, bankruptcy-related reorganizations, and financings. We advise on intellectual property licenses, intellectual property and information technology-agreements, development, publishing, distribution and service agreements, and joint venture arrangements in which intellectual property is the key asset. In addition to our transactional work, we regularly advise clients in the clearance of rights and the selection, development, acquisition, registration and protection of trademarks, trade dress, and trade names.

Reflective of our collaborative approach, we work regularly with our mergers and acquisitions, finance, capital markets, employee benefits, tax, litigation, and bankruptcy practices to craft practical, commercially savvy and cost-effective solutions.





Debevoise represented Amazon.com in its \$970 million acquisition of Twitch Interactive, the leading live video platform for gamers, including advising on copyright issues germane to the video gaming and live video streaming industries.



When Alibaba.com acquired Yahoo! Inc.'s China business, Debevoise represented Alibaba.com in the acquisition, which included licensing of proprietary Yahoo! technology and investment by Yahoo! in Alibaba.



We represented Warner Music Group in its investment in and licenses with Interlude Music, a joint venture technology company specializing in interactive music videos, to utilize its proprietary technology to jointly develop, create, produce and distribute innovative interactive music video content.

“ I have never worked with better partners in my life. They are extremely responsive, extremely knowledgeable and able to see the big picture.”

Ongoing Representations



Debevoise represents GlaxoSmithKline in securing and strengthening its trade dress rights involving the purple trade dress of its Diskus inhaler.



In a multijurisdictional dispute pending in six jurisdictions, we represent Merck KGaA, Darmstadt, Germany in a dispute against Merck & Co. involving the use of the name Merck.



Debevoise represents a subsidiary of Spectrum Brands in its defense against a competitor's trade dress and copyright infringement claims concerning our client's popular brand of pesticides.



We represent PayPal in a highly-publicized trademark infringement suit arising from Pandora's use of a confusingly similar stylized "P" logo.



Debevoise represents New York & Co., a leading specialty manufacturer and retailer of women's fashion apparel, in its efforts to overturn a jury's \$5.6 million award for willful trademark infringement. Debevoise has already succeeded in paring the award back to \$1.9 million; it is pursuing an appeal to further reduce the jury's award.



In what is one of the world's longest-running trademark disputes, Debevoise represents the owners of the internationally-famous rum brand, HAVANA CLUB, in a dispute pending for more than 20 years over ownership of the HAVANA CLUB trademark in the United States.



Debevoise is advising the National Hockey League in connection with a dispute with Snoop Dogg regarding his applications to register trademarks containing the phrase "Leafs by Snoop" for marijuana-related goods.

Our Team



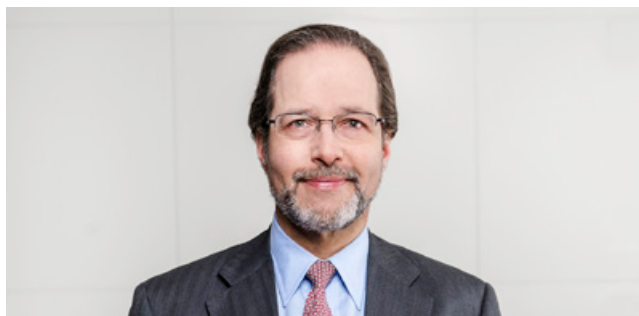
Megan Bannigan

Counsel

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Megan K. Bannigan is counsel in the Intellectual Property Group, representing clients across a range of industries in trademark, copyright, false advertising, rights of publicity, licensing and other contract disputes and related matters. Ms. Bannigan has extensive trial experience, helping to secure an over \$20 million jury verdict for client Learning Annex in the United States District Court for the Southern District of New York, among other trial victories. She also has experience representing clients before the United States Patent and Trademark Office, the Trademark Trial and Appeal Board and the International Trade Commission. She regularly writes and speaks on intellectual property-related issues and is an adjunct professor of Fashion Law and other classes.



Jeffrey Cunard

Partner

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Jeffrey Cunard, managing partner of the firm's Washington, D.C. office, leads the firm's corporate intellectual property, information technology and e-commerce practices. He has broad experience in transactions, including software and technology licenses, joint ventures, mergers and acquisitions, and outsourcing arrangements. Mr. Cunard's practice also encompasses copyright litigation. He is an internationally recognized practitioner in the field of the Internet and cyberlaw, a member of the firm's Cybersecurity & Data Privacy practice, and advises in U.S. and international media and telecommunications law, including privatizations and regulatory advice.



David Bernstein

Partner

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David Bernstein chairs Debevoise's Intellectual Property Group and has broad experience in all aspects of intellectual property, including trademarks, copyrights, false advertising, rights of publicity, and domain names. He is widely recognized as one of the nation's leading intellectual property litigators. Mr. Bernstein is acknowledged as an intellectual property "Star" in the IFLR Benchmark Litigation Guide and as an Intellectual Property "Trailblazer" and "Pioneer" by the National Law Journal. He is ranked in the top tier by Chambers Global and Chambers USA, which notes that he is a "rockstar" and "is roundly considered to be one of the finest trademark litigators in the nation" and where clients note he is "an exceptional, dynamic lawyer and a tenacious litigator" and "just incredible in terms of strategic planning," and The Legal 500 US, where he is seen as "a brilliant litigator," and "the dean of the IP litigation bar."



Jeremy Feigelson

Partner

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Jeremy Feigelson, a litigation partner, is Co-Chair of the firm's Cybersecurity & Data Privacy practice and is a member of the firm's Intellectual Property Group. He frequently represents clients in litigations and government investigations that involve the Internet and new technologies. His practice includes litigation and counseling on cybersecurity, data privacy, trademark, false advertising, copyright, and defamation matters. Mr. Feigelson has a broad and active practice in financial services matters, including securities litigation, investment management disputes and counseling of fund boards, the conduct of internal reviews, defense of government investigations, and complex commercial litigation.

**Jyotin Hamid**

Partner

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Jyotin Hamid, a partner in the New York office, is a seasoned litigator with extensive courtroom experience. He is also deeply involved in Debevoise's market-leading intellectual property practice, having litigated trademark and trade dress cases involving some of the most well-known brands in the world. In addition to intellectual property, he handles a diverse array of other complex litigation matters, with particular focus on employment litigation. In the employment area, he has successfully handled numerous discrimination, whistleblower, contract, compensation and corporate raiding litigations involving high-level executives in a broad range of industries.

**Jim Pastore**

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Jim Pastore is a litigation partner and a member of the firm's Cybersecurity & Data Privacy practice and Intellectual Property Group. His practice focuses on privacy and cybersecurity issues. Prior to rejoining Debevoise in 2014 as counsel, Mr. Pastore served for five years as an Assistant United States Attorney in the Southern District of New York. While he was with the Criminal Division of the U.S. Attorney's Office, Mr. Pastore spent most of his time as a prosecutor with the Complex Frauds Unit and Computer Hacking and Intellectual Property Section.

**Henry Lebowitz**

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Henry Lebowitz is a corporate partner and a member of the corporate intellectual property practice, focusing on leading the IP and technology aspects of mergers and acquisitions, financings, capital markets and other corporate transactions. Mr. Lebowitz has advised companies on complex transactions, litigation, portfolio development and other IP matters in an array of industries. He also regularly assists clients in evaluating patents, trademarks and other intellectual property, developing effective IP portfolios, assessing the merits of IP-related litigation and other disputes and implementing strategies to avoid or favorably resolve such disputes.

**Michael Schaper**

Partner

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Michael Schaper is a litigation partner whose practice focuses on intellectual property and antitrust law, among other areas of complex civil litigation. Mr. Schaper regularly speaks on legal issues involving intellectual property and was former co-chair of PLI's annual Hot Topics in Advertising Law conference. He has also taught at the Institute for Perception's Advertising Claims Support course.

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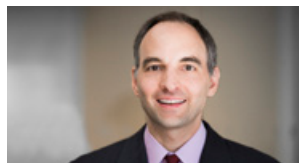
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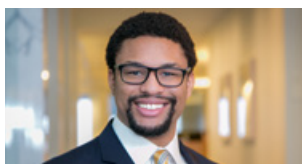
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