



### Marc E. Miller

Associate

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Marc Miller focuses his practice on intellectual property litigation matters involving trademarks, trade dress, copyrights, false advertising and patents, as well as other complex commercial litigation and arbitration matters such as contract disputes, trade secret misappropriation, right of publicity and antitrust violations.

Marc also advises clients on a variety of subjects, including false advertising, unfair competition, rights of publicity, domestic and international trademark prosecution and portfolio management and branding strategy.

As an associate in DLA Piper's Intellectual Property and Technology group, based in New York, Marc regularly represents multinational and Fortune 500 companies as well as small and emerging businesses. He has litigated disputes in multiple districts in federal and state courts throughout the country, representing medical devices manufacturers, brand-name drug manufacturers, an athletic apparel manufacturer, a brand development and licensing company, a designer and retailer of maternity apparel, a sports-related cable television network, a multimedia company, a natural and organic food and personal care products company, a global beauty and cosmetics company and a leading manufacturer of premium quality paint and wall coatings.

## EXPERIENCE

### COPYRIGHT, TRADEMARK AND TRADE SECRET LITIGATION

- *Dr. Seuss Enterprises LP v. ComicMix LLC et al* (SD Cal.)—representing Dr. Seuss Enterprises in copyright and trademark litigation relating to infringement of iconic Seuss works, including *Oh The Places You'll Go*
- *PaySys International, Inc. v. Atos SE, et al* (SDNY)—representing Atos and Worldline in copyright infringement, trade secret misappropriation, breach of contract and related tort action concerning credit card and payment processing software; secured pre-trial dismissal of all 11 causes of action brought under federal, state and foreign law
- *TigerCat Int'l v. Caterpillar Inc.* (D. Del.)—representing TigerCat in declaratory judgment of non-infringement and non-dilution relating to TIGERCAT mark
- *Chicago Mercantile Exchange Inc. v. ICE Clear US, Inc. et al* (ND Ill.)—representing Intercontinental Exchange in trademark infringement action
- *World Trade Centers Association Inc. v. The Port Authority of New York and New Jersey* (SDNY)—represented the Port Authority of New York and New Jersey in trademark infringement action

### RELATED SERVICES

- Trademark and Copyright
- Patent Litigation

- *Spinelli et al v. Associated Press et al* (SDNY)—represented AP in defense of copyright, antitrust and related tort claims brought by a group of professional sports photographers alleging unlawful use of NFL-related photographs
- *Spanski Enterprises, Inc. v. Telewizja Polska SA* (DDC)—represented Polish public broadcaster in copyright infringement action relating to geo-blocking of online video content
- *Gordon v. Invisible Children, Inc., et al* (SDNY)—represented Invisible Children in copyright infringement action
- *God, Gold and Moore, LLC, d/b/a Psycho Bunny v. Nike, Inc.* (SDNY)—represented Nike in lawsuit for trademark infringement and dilution by a men's fashion company in the United States District Court for the Southern District of New York. Successfully defeated Psycho Bunny's request for a Temporary Restraining Order and Preliminary Injunction and eventually obtained a successful settlement for Nike

## PATENT LITIGATION

- *Fatboy v. EMRG Creative* (ND Tex.; PTAB)—represented EMRG in design patent infringement action relating to inflatable seating. The case settled shortly after Post Grant Review proceedings were filed in 2016
- *Autoloxer LLC v. Sandvik Mining and Construction USA, LLC* (ED Tex.)—represented Sandvik in patent litigation that settled early and favorably for Sandvik
- *America's Collectibles Network v. The Genuine Gemstone Company* (ED Tenn.)—represented The Genuine Gemstone Company in patent infringement action obtaining complete victory on summary judgment
- *Destination Maternity Corp. v. Target Corp.* (Ed. Pa; PTAB)—represented Destination Maternity in patent litigation and related Inter Partes Review concerning maternity apparel patents
- *St. Jude Medical v. Volcano Corp.* (D. Del.)—represented St. Jude in series of offensive and defensive patent litigations relating to diagnostic cardiovascular guide wire technology, including two jury trials in the District of Delaware

## CREDENTIALS

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### Admissions

- New York

### Prior Experience

Before joining DLA Piper, Marc worked at the Software Freedom Law Center, an organization that provides pro bono legal services to nonprofit developers of free and open-source software. While there he represented clients in a variety of matters related to open source development, including copyright litigation, copyright and trademark licensing, and nonprofit governance.

At New York Law School, Marc was a John Marshall Harlan Scholar and a Notes & Comments Editor of the *New York Law School Law Review*.

Before attending law school, Marc spent four years working for a specialty software company.

### Education

- J.D., New York Law School 2010  
*cum laude*
- B.S., University of Vermont 2003

### Courts

- United States Court of Appeals for the Second Circuit
- United States District Court for the District of Colorado
- United States District Court for the Eastern District of New York
- United States District Court for the Southern District of New York

## INSIGHTS

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### Publications

**Law à la Mode: Word of the industry's mouth; Enforcement of IP rights through Ukrainian customs register; E-commerce in Poland; The development of artificial intelligence in the fashion industry; and more**

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Law à la Mode Series

The US editorial team is delighted to bring you the 27th edition of *Law à la Mode*, the quarterly legal magazine produced by DLA Piper's Retail Sector Group for clients and contacts of the firm worldwide.

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### PRO BONO

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Marc is extensively involved in DLA Piper's national signature projects, including Advancing Education's Promise, a pro bono project dedicated to improve educational pathways for children. As part of Serving Those Who Serve Our Country, a multi-faceted pro bono project serving veterans and their families, Marc represents a veteran before the Department of Veterans Affairs, Board of Veterans' Appeals.

Through Volunteer Lawyers for the Arts, Marc has represented and counselled artists, including successfully negotiating the settlement of a dispute between a New York artist and a gallery.

Marc received a Pro Bono Publico Award from The Legal Aid Society in 2013 for his work on Legal Aid's amicus brief to the New York Court of Appeals in *People v. Dunbar*, arguing that the Queen's County District Attorney's practice of interviewing was unconstitutional.