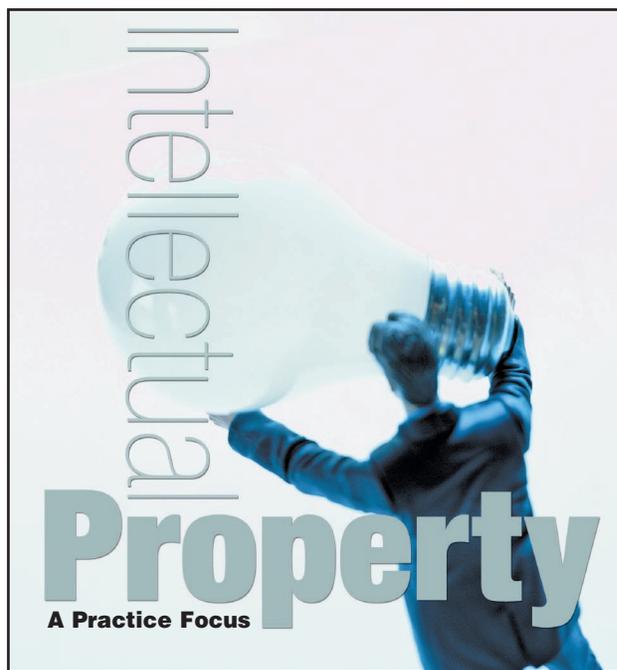


Identifying **10** Leading Copyright and Trademark Attorneys

Copyright and trademark law—some call them the softer side of intellectual property. Or wait! Does that infringe the Sears trademark? These 10 lawyers could answer that one in their sleep. (Answer: No. One-time use. Confusion highly unlikely.)

Theirs is an increasingly sophisticated practice area. Where copyright owners once fretted about photocopying, users now can make an infinite number of perfect digital copies. Trademark wars have also moved to cyberspace, where misspelling a domain name might lead children to hard-core porn.

Yet practitioners say their work is more interesting than ever, with issues of first impression



popping up everywhere. The big question remains the same: “If you can’t protect your IP, what do you own?”

Leading LAWYERS

Ten of the D.C. Area's Top Copyright and Trademark Attorneys

Robert Garrett

Arnold & Porter LLP

If there's one perk to being Major League Baseball's go-to lawyer for copyright issues, it's this: "To represent any client effectively, you've really got to know the industry," says Robert Garrett, sounding slightly sheepish. And if that means, say, you have to attend lots of baseball games, so be it.

When this dedicated fan isn't cheering on his team (his heart belongs to the Chicago Cubs), he's handling complex copyright matters that go well beyond baseball. The 59-year-old Arnold & Porter partner represents several major sports leagues, broadcast and cable television networks, recording companies, and motion picture studios.

Major League Baseball general counsel Thomas Ostertag, who has worked with Garrett for 23 years, calls him "an absolutely terrific lawyer. He has lots of strengths, but probably his biggest strength is that he spots all the issues." Garrett advises the league on copyright matters related to broadcast, cable, and satellite transmissions.

Another longtime client is the Walt Disney Co. Terri Southwick, Disney's deputy general counsel for intellectual property worldwide, looks to Garrett for "top-quality, highly effective representation, particularly on the complicated issues that are inherent in the intersection of copyright and emerging technology."

Garrett's skills were showcased in an argument last October before the U.S. Court of Appeals for the 2nd Circuit on behalf of Disney and other plaintiffs.

His clients—the Motion Picture Association of America and its members, as well as the broadcast networks—had sued Cablevision Systems Development Corp. for copyright infringement. Their target: Cablevision's new technology for unlicensed recording and on-demand retransmission of TV programming. Known as a remote-storage digital video recorder, the technology allows users to request the recording of specific programs, which are then stored on the cable company's servers.

Copyright owners argue this amounts to Cablevision unlawfully reproducing and retransmitting their content. In March 2007, the district court agreed. An appellate decision was pending at press time.

"Bob is clearly one of the leading copyright lawyers around," says Gregory Goeckner, general counsel of the MPAA. "He does a great job explaining what can be fairly technical, complex matters."

Also on Garrett's plate these days is a dispute over more

than \$1 billion in royalty fees paid by cable operators and satellite carriers to retransmit TV programs. Garrett is lead counsel for the Joint Sports Claimants, a coalition that includes Major League Baseball, the National Football League, the National Basketball Association, the National Hockey League, and the National Collegiate Athletic Association. Proceedings are pending before the Copyright Royalty Board.

On the global front, he is lead counsel to the Coalition of Sports Organizations, which is looking to protect members' interests in ongoing discussions before the World Intellectual Property Organization about a new broadcasting treaty.

Overall, Garrett locates his practice at "the intersection of copyright and new technology." He takes a multidisciplinary approach: "It's not simply litigation."

That certainly describes another current role—lead counsel to the Coalition Against Online Video Piracy. The group's 59 members are a veritable Who's Who of entertainment companies, broadcast networks, and sports leagues, all concerned about the spread of unauthorized Web sites around the world that stream TV programs over the Internet. Garrett, who won the job as outside counsel based on a vote of all the members, is now coordinating the group's activities in dealing with the Chinese government.

"Time and again, Bob Garrett is the go-to outside lawyer for the sports leagues and related organizations," says Michael Mellis, general counsel of Major League Baseball Advanced Media. "There is no one else in the United States, or even the world, whom one would turn to before Bob on these types of [copyright] matters."

Among the highlights on Garrett's earlier resume is his work on the landmark D.C. Circuit case of *National Association of Broadcasters v. Copyright Royalty Tribunal* (1982), which established that sports leagues are entitled to receive royalties for cable retransmission of sports broadcasts. "If that case had gone the other way, my practice today would be very different," notes Garrett. "There was a lot riding on it."

He also argued before the Supreme Court in *Community for Creative Non-Violence v. Reid* (1989), which clarified the definition of works "made for hire" for purposes of copyright ownership. Garrett, who represented the nonprofit group pro bono, lost the case but describes the argument as "a great experience."

Garrett received his law degree from Northwestern University in 1973. He clerked for then-Judge John Paul Stevens on the 7th Circuit. He served in the U.S. Army as an assistant to the general counsel in the Office of the Secretary of the Army before joining Arnold & Porter in 1977. Key colleagues in the intellectual property group there include Michele Woods, Hadrian Katz, and trademark practice head Roberta Horton.

