

Exhibit 9

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DANIEL J. FURNISS

Partner
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PRACTICE AREA
Litigation
Antitrust & Unfair Competition

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Mr. Furniss is the partner-in-charge of the Litigation Practice Group in the Palo Alto office of Townsend. Mr. Furniss' primary area of expertise is in the litigation and trial of complex commercial disputes, including patent, trade secret, trademark, trade name, antitrust and copyright cases.

Mr. Furniss has handled patent infringement cases, representing both plaintiffs and defendants, involving software, semiconductors, biotechnology, medical devices, data storage devices, computer design, networking, communications, industrial chemicals and materials science.

He has been involved in numerous patent infringement actions, both plaintiff and defense, involving: (i) software patents involving database query technologies and computer assisted design, antivirus technology and computer controlled manufacturing, (ii) patents for "flying heads" used in hard disk drivers; (iii) numerous DRAM circuit and process patents; (iv) patents alleged to cover all forms of DNA sequencing by hybridization; (v) medical device patents including cryosurgery, cardiology, electrophoresis and drug delivery systems, (vi) communications and Internet technology patents.

Mr. Furniss began his career as a business fraud and securities prosecutor in San Mateo County where he tried numerous cases to juries and courts. He has tried more than 40 cases and has more than 400 days of trial experience. He has specialized in complex commercial litigation and trial for 20 years.

A National Champion in public speaking and debate, Mr. Furniss is an outstanding trial lawyer and oral advocate. He has been counsel in major patent, antitrust and commercial cases for clients including Hyundai Electronics, Visa U.S.A., Affymetrix, Inc., Pharming, B.V., Business Objects, Perclose, Inc., Intergraph Corporation, and Sun-Maid Growers of California.

CLIENT MILESTONES

He successfully represented plaintiff in *Intergraph v. Intel*, United States District Court of the Eastern District of Texas (2002) where the court held that that Intel's Itanium processors infringe two Intergraph patents directed to parallel instruction computing. The court held that Intergraph is entitled

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to an injunction preventing Intel from manufacturing, using, selling, offering to sell, or importing Intel's Itanium or Itanium 2 processors. He assisted Intergraph to obtain a total of \$450 million for infringement of its patents, one of the five largest patent infringement settlements of all time

His successful representation of defendant in *Aliotti v. Dakin*, 831 F.2d 898 (9th Cir. 1987) remains a leading precedent in the copyright area of "look and feel."

He successfully represented plaintiff insurance brokers in the recent landmark decision of the California Supreme Court in *Manufacturers Life Ins. v. Superior Court*, 10 Cal.4th 257 (1995) where the court held that insurance companies are subject to California's antitrust law, the Cartwright Act.

He was lead class counsel in *Bell v. American Title Ins. Co.*, 226 Cal.App.3d 1589 (1991), a successful plaintiff's class action suit where the Court of Appeal commented on counsel's "skillful" negotiation of a favorable settlement.

EDUCATION

University of California, Berkeley, J.D., 1976

Moot Court Board, Co-Chair

McBane Moot Court Competition, *Finalist*

Stanford University, A.B., 1973, *Political Science, with honors*

ADMISSIONS AND MEMBERSHIPS

American Bar Association

Bar Association of San Francisco

Intellectual Property, Antitrust and Commercial Law Section, *Member*

Intellectual Property, Antitrust and Commercial Law Section, *Member*

San Mateo County Bar Association

State Bar of California, 1976

COMMUNITY INVOLVEMENT

Mr. Furniss is a Trustee of the Hillsborough City School District, President of The Hillsborough Recreation Commission, a soccer coach and father of three.

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Mr. Jansen is a trial attorney whose practice includes a wide range of antitrust, intellectual property, unfair business practice, business tort, and other business dispute litigation. His practice is focused on antitrust, unfair practices and theft of trade secret law. He has substantial litigation experience in patent, trademark, copyright, breach of contract, and class action matters. Mr. Jansen also has substantial appellate court experience.

In addition, Mr. Jansen provides counseling, primarily in the antitrust and unfair business practices law areas, in a wide range of contexts including but not limited to mergers, intellectual property licensing, vertical distribution, vertical price restraints, trade secret protection, and development of antitrust compliance and amnesty programs. He also has represented clients in connection with grand jury and other government investigations.

Prior to any litigation, Mr. Jansen explores less expensive, alternative dispute resolution options with clients. He has successfully resolved many disputes amicably through mediation, arbitration and efficient alternatives to litigation and trial.

Prior to practicing law, Mr. Jansen was a research chemist with Stauffer Chemical Company.

EDUCATION

University of California, San Francisco, Hastings College of the Law, J.D.,
1984, *cum laude*, *Order of the Coif*
University of California, Santa Cruz, B.A., 1978, *Chemistry and Environmental Studies*

ADMISSIONS AND MEMBERSHIPS

American Bar Association, *Antitrust Section*
San Francisco Bar Association
State Bar of California, 1984
United States Court of Appeals, Fifth, Ninth and Federal Circuits
United States District Court, Central, Northern and Eastern Districts of California, and Eastern District of Texas
United States Supreme Court

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INTELLECTUAL PROPERTY REPRESENTATIVE CASES

International Rectifier Corporation v. IXYS Corporation, 2000-present. United State District Court, Los Angeles. Co-tired patent damages care as counsel for defendant. Patent infringement action involving power transistor patents. C.D. Cal. Pending an appeal.

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Harris Corporation v. Mosel Vitelic, United States District Court, Virginia. Defense of integrated circuit maker accused of infringing six circuit and process patents. Case settled favorably with entry into license agreement.

Texas Instruments v. Hyundai Electronics, United States District Court, Texas. Defense of integrated circuit maker accused of patent infringement.

Berclain America Latina S.A. de C.V. v. Baan, N.V., et al, San Mateo Superior Court. Lead plaintiffs' counsel for Latin American software distributors in usurpation of business/unfair competition action against business software manufacturer Baan N.V. and related defendants. Favorably settled.

Duggan's Funeral Service v. Duggan's Serra Mortuary, San Francisco Superior Court and U.S. District Court. Lead defense trial and appeal counsel. Obtained defense judgment, order canceling adverse party's trademark and \$340,000 sanctions award from plaintiff. Affirmed on appeal in federal and state system.

Network Services Corporation v. Buckner, Inc., AAA Arbitration (1998). Lead plaintiff's counsel in two week American Arbitration Association hearing concerning breach of "best efforts" clause in satellite communication technology license. Obtained award and judgment terminating license, returning technology, and awarding damages.

GRiD Systems Corp. v. Texas Instruments, Inc., United States District Court, San Francisco. Prosecuted federal antitrust and patent invalidity declaratory relief action on behalf of Tandy Corporation and its subsidiary, GRiD Systems Corp., against Texas Instruments. Key issues included the validity of Texas Instruments' microprocessor patents and the legality of its package patent licensing practices under the federal antitrust laws.

Lumatech v. Tek-Tron Industries, United States District Court, San Francisco. Successfully asserted patent invalidity and antitrust theories to renegotiate patent license terms.

Platte Chemical Co. v. Kemmer Agricultural, United States District Court, Fresno. Prosecuted antitrust counterclaims on behalf of agricultural products manufacturer and distributor accused of patent infringement.

Anex Electrical Company, Ltd. v. Sun-Mate Corporation, United States District Court, Los Angeles. Lead trial counsel for plaintiff in trade dress, trademark, and unfair competition case involving importation of consumer electronic products. Favorably settled before trial.

Sebastian International, Inc. v. Longs Drug Stores Corporation, United States District Court, Los Angeles. Asserted antitrust and unfair business

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practice theories in successful defense of a manufacturer's attempt to enforce its product distribution restrictions through trademark infringement actions against unauthorized retailer.

Luminoptics Corporation v. Universal Manufacturing, Alameda County Superior Court (1995). Co-counsel for plaintiff: \$96,000,000 jury verdict sustained in technology suppression case on behalf of inventor and licensor of fluorescent light ballast technology (affirmed on appeal).

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Electronic Data Systems v. Altair Associates, United States District Court, Detroit, Michigan. Prosecuted software copyright infringement and trade secret theft case for EDS.

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Dickson Industries v. Remington Products, LLC, United States District Court, Sacramento. Lead counsel for Remington Products in defense of patent infringement action.

Monterey County Bank v. Monterey Bay Bank, Monterey County Superior Court. Successful defense of trademark and unfair competition action based on client's use of similar words "Monterey" and "Bank" in name adapted for competing financial institution.

Berkeley Systems v. Dehrina Corporation, United States District Court, San Francisco. Obtained preliminary injunction in copyright and trademark action on behalf of computer "screen saver" software program manufacturer.

Big Sur Waterbeds v. Sleepmasters, United States District Court, Eastern District of Texas. Lead trial and appellate counsel for plaintiff furniture retailer in copyright and trademark infringement action.

Belvedere Winery v. Polmos, United States District Court, San Francisco. Successful assertion of "Belvedere" mark against intended use of same name by Polish vodka manufacturer/importer. Action settled promptly after complaint filed, through a license agreement.

ANTITRUST REPRESENTATIVE CASES

St. Luke's Hospital v. California Pacific Medical Group, San Francisco Superior Court. Plaintiff's co-counsel in antitrust action challenging exclusive dealing contracts between large hospital system and the largest physicians group in San Francisco, California. Settled on favorable terms.

Lingo, et al v. Microsoft Corp., San Francisco Superior Court (class action). Pending. Prosecution of antitrust and unfair competition claims against Microsoft on behalf of all California consumers of Microsoft products.

Forces Action v. State of Utah, et al, United States District Court, San Francisco. Lead counsel for State of Utah in successful defense of class action challenging multistate tobacco litigation settlement.

Central Garden and Pet Company v. Monstauto Corp. and The Scotts Company, San Francisco Federal Court. Represented distribution company in group

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boycott, price fixing and monopolization claims against agricultural chemical products companies.

Gonzales v. Kaiser Sand & Gravel Co. and Syar Industries, United States District Court, San Francisco. Lead counsel for Syar Industries in defense of wrongful termination action and two related antitrust class actions alleging price fixing and bid rigging in sand, gravel and asphaltic concrete markets.

Pacific Gas & Electric Co. v. Wismer et al., United States District Court, San Francisco. Defense of bid rigging action brought by PG&E against numerous electrical contractors regarding construction of Diablo Canyon Nuclear Power Plant.

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COMMERCIAL REPRESENTATIVE CASES

MCI Systemhouse v. Fluor-Daniel, Orange County Superior Court. Represented computer system consultant in dispute over performance of IS "outsourcing" contract. Favorably settled.

Commissioner of Department of Insurance v. Altus Finance, Credit Lyonnais Bank, et al, United States District Court, Los Angeles: Pending. Defense counsel for former Credit Lyonnais executive in civil and criminal investigation stemming from 1991 state takeover and resulting "bailout" of Executive Life Insurance Company.

Power Agent Inc. v. Electronic Data Systems Corp., United States District Court San Francisco. Successfully defended suit asserting that EDS had breached fiduciary duties and reneged an alleged promise to lead private financing round. Forced case to arbitration and obtained defense judgment.

Red Cart Market, Inc., et al. v. Baywood Marina Limited Partnership, et al. Lead plaintiff's trial counsel in three-week jury trial, involving negligence, fraud and breach of commercial real estate development contract. Obtained \$750,000 jury verdict.

PUBLICATIONS AND SPEAKING ENGAGEMENTS

"Settlement of IP Litigation as an Antitrust Violation," Practicing Law Institute Seminar, January 27, 2003, *Speaker*

"Antitrust Implications of Patent Litigation Settlements," paper presented to Practicing Law Institute, June 3, 2003 and Association of Corporate Patent Counsel, February 3, 2004

"To Settle or Not: Is Settling IP Litigation an Antitrust Violation?," Association of Corporate Patent Counsel, February 3, 2004, *Speaker*

"Reverse Payment Litigation Settlements: Antitrust Issues Affecting IP Licensing and Settlements of Pharmaceutical Patent Litigation," San Diego Intellectual Property Law Association, January 15, 2004, *Speaker*

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JOHN C. BAUM

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Mr. Baum concentrates on trademark and copyright prosecution, licensing and litigation. He specializes in counseling established brand-intensive businesses in trademark selection and enforcement as part of their overall business and marketing strategies.

Mr. Baum has coordinated trademark infringement and counterfeit raid actions in Hong Kong and mainland China, where a client's successful trademark policing efforts were the subject of a television special, partially funded by Chinese government sources. His domestic practice includes administrative proceedings with the United States Customs Service relating to the protection of United States intellectual property rights and gray market goods.

Prior to entering the field of law, he was an art museum and rare book curator for the University of Chicago.

SELECTED LITIGATION

RedEnvelope, Inc. v. Party Night, Inc. (ICANN – NAF); *administration decision for client/respondent.*

RedEnvelope, Inc. v. Oui! (ICANN – NAF); *administration decision for client/respondent.*

CATC v. Catalyst, USDC, Northern District – CA (Trade Dress, Trademark, Copyright); *re-trial pending.*

NEIEP v. Bay Area Rapid Transit, USDC, Northern District – CA (Copyright infringement); *settled.*

Pet Warehouse v. Pets.Com (ICANN – WIPO); *administration decision for client/respondent.*

Dog.Com, Inc. v. Pets.Com (ICANN – NAF); *administration decision for client/respondent.*

Whistle Communications v. InterjetNet, USDC, Central District – CA (Service mark infringement and unfair competition); *resolved case with entry of permanent injunction and consent judgment against infringer.*

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eToys v. ETNA, USDC, Central District – CA (Declaratory Relief - service mark infringement and unfair competition) (parallel case for affirmative relief filed in New York); *settled for client with assignment of challenger's rights after motion to dismiss challenger's New York case filed.*

Duggan's Funeral Service v. Duggan's Serra Mortuary, TTAB, District Court, California Superior Court (Cancellation and service mark infringement); *application for temporary restraining order and motion for preliminary injunction successfully overcome. Case remanded and fees awarded.*

Monterey County Bank v. Monterey Bay Bank, California Superior Court, Salinas (Service mark infringement and unfair competition); *application for temporary restraining order and motion for preliminary injunction overcome. Settled.*

The Bath & Beyond v. Bed Bath & Beyond, USDC, Northern District – CA (Trademark infringement); *judgment entered and permanent injunction issued, subsequent finding of contempt with award of all fees and expenses. (42 USPQ2d 1308).*

Chung Kai Industries, Inc. v. Dayton Hudson, USDC, Northern District – CA (Copyright infringement and unfair competition); *settled.*

Chung Kai Industries, Inc. v. Baby Superstores, USDC, Colorado (Copyright infringement and unfair competition); *settled.*

In re Venquest Trading, Inc., U.S. Customs Service, Port of San Francisco Seizure Case No. 96-2809-00881 (Administrative proceedings and appeal relating to importation of piratical copies in violation of the Copyright Act).

EDUCATION

University of California, Davis, J.D., 1993, *Order of Barristers*
University of Chicago, Chicago, M.A., 1984
Sarah Lawrence College, Bronxville, B.A., 1979

ADMISSIONS AND MEMBERSHIPS

American Bar Association
Bar Association of San Francisco
Brand Names Educational Foundation- INTA
State Bar of California, 1993

PUBLICATIONS AND PRESENTATIONS

"Do You Really Know It When You See It? Definitions of "Bad Faith" in Recent ICANN Domain Name Dispute Proceedings," San Francisco Intellectual Property Law Association, January 2002.

"I Think ICANN, But Should I?," Law Seminars International. November 2001.

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TTClient *Alert*, "Protecting Your Marks Before the .BIZ Land Rush Begins," June 2000.

TTClient *Alert*, "Internet Law: New Developments," December 2000.

"Recent Developments in US IP Law Concerning Gray Market Importation/Customs Enforcement," (PLI program materials on international commerce/IP), 1998, 1999, *Contributor*.

"*Ex Parte* Communications with Corporate Employees: Who Can You Talk To?" (with Samuel Miller), *The Corporate Litigator*, ABA, 1997.

"Border Patrol: Recording Copyrights with U.S. Customs," *Daily Journal* (Los Angeles and San Francisco), December 24, 1996 (Reprinted in *Colorado Bar Association Newsletter*).

Townsend *Connection*, "The Benefits of Recording Copyrights With U.S. Customs," Autumn 1996.

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