

# EXHIBIT D

**BRUCE P. KELLER**  
**PARTNER**



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Bruce Keller supervises the firm's Intellectual Property Litigation Group.

During his career, Mr. Keller has litigated a number of widely publicized intellectual property, First Amendment and other entertainment-related cases on behalf of Sony Pictures (involving the first Spider-Man motion picture and the First Amendment rights of studios to electronically alter background scenery); Howard Stern and CBS Radio (over the on-air handling of cremated remains); American Express (involving false advertising claims against Visa); the National Football League (involving the unauthorized online streaming of NFL game telecasts and numerous trademark matters); CompuServe (involving trademark and copyright issues for its proprietary online service); Time and The New York Times Company (involving their right to distribute electronic versions of their publications); and The Washington Post Company, USA Today and CNN (involving the copyrights to their websites). Mr. Keller also developed and implemented the intellectual property protection program used by The Statue of Liberty-Ellis Island Foundation, Inc., the organization that raised the money for the restoration of the Statue of Liberty and Ellis Island by licensing its logos and trademarks.

Among the reported cases Mr. Keller has litigated are *Egilman v. Keller & Heckman*, 401 F. Supp. 2d 105 (D.D.C. 2005); *USA Football, Inc. v. Robinson*, 74 U.S.P.Q. 2d 1646 (S.D. Tex. 2004); *Sherwood 48 Associates v. Sony Pictures Entertainment, Inc.*, 213 F. Supp. 2d 376 (S.D.N.Y. 2002); *Novartis Consumer Health, Inc. v. Johnson & Johnson & Merck Consumer Pharmaceuticals, Co.*, 129 F. Supp. 2d 351, *aff'd*, 290 F. 3d 578 (3d Cir. 2002); *Pharmacia Corp. v. Alcon Laboratories, Inc.*, 201 F. Supp. 2d 335 (D.N.J. 2000); *Checkpoint Systems v. Check Point Software*, 269 F.3d 270 (3d Cir. 2001); *NFL v. Coors*, 1999 U.S. App. LEXIS 38272 (2d Cir. 1999); and *Infinity Broadcasting v. Kirkwood*, 150 F.3d 104 (2d Cir. 1998).

Mr. Keller has written and lectured extensively on a variety of intellectual property topics. He is the co-author, along with Jeffrey Cunard, of *Copyright Law: A Practitioner's Guide* published by Practising Law Institute. In addition to maintaining a full-time litigation practice, Mr. Keller, along with Mr. Cunard, has taught at The Berkman Center for Internet and Society at Harvard Law School. In May 2008, Mr. Keller, along with Mr. Cunard, received the Berkman Award, the Center's highest honor, for their *pro bono* service as lawyers, educators and co-directors of the Center's clinical program.

Mr. Keller's other publications include: "The Game's the Same: Why Gambling in Cyberspace Violates Federal Law," 108 *Yale Law Journal* 1569 (1999); "Condemned to Repeat the Past: The Reemergence of Misappropriation and Other Common Law Theories of Intellectual Property Protection," 11 *Harvard Journal of Law and Technology* 401 (1998); "It Keeps Going and Going and Going: The Expansion of False Advertising Litigation Under the Lanham Act," 59 *Law and Contemporary Problems* 131 (Spring 1996); "Maximizing Trademark Protection and Trademark Value," *Directors & Boards Magazine* (Summer 1993); and "A Survey of Survey Evidence," *Litigation* (Fall 1992).

He also was an Advisor to the American Law Institute's *Restatement of the Law: Unfair Competition*, and is a member of the Advisory Board of BNA's *Patent, Copyright and Trademark Journal*, the *Advertising Compliance Service* and *The Entertainment Law Reporter*, among others. He has been Counsel to the International Trademark Association ("INTA"), including in connection with the INTA's amicus brief in the landmark *Taco Cabana* trade dress case.

*Chambers USA* (2009) ranks Mr. Keller nationally for Sports Law, and in New York's top-tier for Intellectual Property: Trade Mark & Copyright, as well as Media & Entertainment: Copyright & Contract Disputes. In that publication, clients laud him as "quick to understand business concerns, has all the right answers, and offers common sense solutions...[he is] head and shoulders above many for copyright, trademark and First Amendment issues." *Benchmark Litigation* (2010) declares Mr. Keller is a star who has handled numerous high profile cases. That publication notes one long term client lauded him for his skills saying, "if I had one lawyer I could call on something, I would call Bruce." The *Legal 500 US* (2009) notes that clients appreciate his "thoughtful and well-reasoned advice," and *The Legal 500* (2007) describes him as an "outstanding" intellectual property litigator. *PLC Yearbook* (2009) lists Mr. Keller as a leading lawyer in IP: non-patent litigation, describing him as a "highly sought-after IP litigator, with a resume boasting a string of high-profile advertising, trade mark, copyright and unfair competition matters." *Chambers USA* (2007) recognizes Mr. Keller as "an exceptional litigator" who is at the "top of the field" and "better than anyone else" in copyright, trademark and internet related issues. *The Hollywood Reporter* continues to list Mr. Keller as one of the few lawyers from outside Los Angeles on their annual list of "Top 100 Power Lawyers" (2009) and proclaims that he is a "go-to guy for copyright and trademark issues, particularly involving new technologies" (2007). Other listings include: Top 20 Trademark Experts in the United States, *World Trademark Review* and New York Area's Best Lawyers, *New York Magazine*. In addition, Mr. Keller has been recommended as a leader in intellectual property law by *Chambers Global*, *Euromoney's Guide to the World's Leading Trademark Practitioners* and *PricewaterhouseCoopers' Global Counsel*.

Mr. Keller joined Debevoise in 1982 and became a partner in 1988. He received a B.S. from Cornell University in 1976 and his J.D. from Boston University in 1979.

Mr. Keller can be reached by telephone in our New York office at +1 212 909 6118 and by e-mail at [bpkeller@debevoise.com](mailto:bpkeller@debevoise.com).



**JEFFREY P. CUNARD**  
**PARTNER**

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

Mr. Cunard is the author of, and a contributor to, books and articles on communications and intellectual property and technology law, and speaks widely on those subjects. He is the co-author, with firm partner Bruce Keller, of *Copyright Law: A Practitioner's Guide* (2001-2008), published by Practising Law Institute. He also is the co-author of the "Obscenity and Indecency," "Copyright" and "Trademark and Unfair Competition Issues" chapters in *Internet and Online Law* (K. Stuckey, ed.) (Law Journal Seminars-Press 1999-2008) and annually co-authors a summary of legal developments involving the Internet for the Practising Law Institute's Communications Law program. He is a major contributor to *The Future of Software* (1995), published by MIT Press, is a co-author of two books on international communications law, *From Telecommunications to Electronic Services* (1986) and *The Telecom Mosaic* (1988), both published by Butterworths, and is on the Board of Editors of *e-commerce Law & Strategy*. For several years, he taught a seminar at Harvard Law School, "Practical Lawyering: Internet-Related Issues," and served as co-director of the Clinical Program at the Berkman Center for Internet & Society at Harvard University.

Mr. Cunard is an active participant in community activities and the arts. He is a member of the Board of Trustees of the Freer Gallery of Art/Arthur M. Sackler Gallery, Smithsonian Institution (Chair, 2003-2007); serves as Secretary of and is on the Board of Directors of Friends of Khmer Culture; and is Counsel to the College Art Association. He is a past President of the Woolly Mammoth Theatre Company and a past director of both Rhizome.org and the Choral Arts Society of Washington.

Mr. Cunard graduated *summa cum laude* in English and Political Science from the University of California at Los Angeles in 1977 and received a J.D. in 1980 from the Yale Law School, where he was an Editor of the *Yale Law Journal*. After graduation from law school, he served as Law Clerk to the Honorable Wm. Matthew Byrne, US District Court for the Central District of California.

Mr. Cunard can be reached by telephone in our Washington, D.C. office at +1 202 383 8043 and by e-mail at [jpcunard@debevoise.com](mailto:jpcunard@debevoise.com).

# **EXHIBIT E**

# Class Actions

## Who We Are

Debevoise has a leading litigation practice in the US. The Litigation Department includes 44 partners, 20 Counsel, and 215 associates, based in New York, Washington, DC, London, Paris and Frankfurt. We handle a wide range of complex commercial disputes. Over the last decade, our representations involving defense of class actions or similar mass tort lawsuits claiming some form of consumer or securities fraud have constituted the largest single component of our litigation practice. These representations fall into four major categories:

## Selected Representations

**CONSUMER FRAUD/SALES PRACTICES LITIGATION.** We have defended companies in a range of industries against consumer class actions claiming breaches of state Uniform Deceptive Acts & Practices ("UDAP") statutes and related allegations of breach of contract or breach of express or implied warranties. Select representations include:

- Yum! Brands, Inc. and Burger King in obtaining dismissal of cases brought by the Center for Science in the Public Interest (CSPI) in the District of Columbia alleging that the use of transfat oils in their products violated the District of Columbia's Consumer Protection Procedures Act.
- A content provider in a consumer fraud case in California involving charges for premium cell phone content.
- The Recording Industry Association of America in a challenge to their copyright enforcement program.
- New York Life, John Hancock, The American General Companies, Phoenix Home Life, Transamerica, Manulife, Pacific Mutual and other insurers in a wave of nationwide class actions filed on behalf of millions of policyholders alleging various forms of sales practice violations.
- A major recording company in multiple class actions alleging that "content protection software" included on some of its music CDs was not sufficiently disclosed and rendered computers more susceptible to viruses.
- One of the world's largest computer companies in multiple actions claiming that its consumer products did not work as advertised.
- Leading insurance companies in class actions alleging their insurance sales and premium-setting practices violated federal civil rights laws.
- A major contact lens mail-order house against claims for the shipment of and billing for allegedly unsolicited goods.
- A major credit card company against a claim that a change in the terms of service breached promises to cardholders.
- An electronics retailer against claims alleging the improper processing of refund claims.

## What Others Say About Us

Ranked as an elite leading New York firm for General Commercial Litigation.

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*"Everyone is exceptionally talented and gives it their all; they have tons of experience and bring great judgment to cases."*

The group is seen to really excel in SEC investigations with a criminal or class action element.

CHAMBERS USA, 2008

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A "pre-eminent reputation" for litigation.

LEGAL 500 US, 2007

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Ranked among the top ten law firms on the A-List for all seven years since its inception.

THE AMERICAN LAWYER

# DEBEVOISE & PLIMPTON LLP

## Selected Representations (cont.)

**SECURITIES-RELATED LITIGATION.** Securities litigation and other shareholder class and derivative actions are a major component of our litigation practice. Select representations include:

- Royal Dutch/Shell, Global Crossing, Yukos Oil Company, Dollar General, MicroStrategy and Waste Management, and many directors and officers of these companies and others, in connection with SEC investigations, investor class actions and/or derivative lawsuits following restatements of earnings, disappointing earnings announcements, or bankruptcies.
- A number of companies in various pending investigations into initial public offering and mutual fund sales practices.
- Leading insurance companies in class action litigations arising out of demutualizations.
- A large accounting firm in the successful trial defense of a securities class action.
- One of the world's leading accounting firms in the dismissal of a RICO class action seeking billions of dollars in alleged damages arising out of an international bank failure.

**ANTITRUST LITIGATION.** Our antitrust litigation practice reflects the deep strength Debevoise has in class actions and other complex litigations. Our experience extends to all areas of competition law, including civil and criminal investigations and actions brought by federal and state antitrust authorities and private litigation under general and state antitrust statutes. Select representations include:

- Swedish Match in its antitrust claims against UST for whom we obtained a settlement of more than \$200 million.
- Two defendants in multi-jurisdictional litigation alleging restraint of trade and other antitrust and consumer protection statute violations in connection with the sale of generic drugs.
- Nepera in multi-state class actions alleging price fixing in the vitamin industry.
- A subsidiary of Waste Management against allegations that it and other companies engaged in anticompetitive practices in providing sanitation services.
- An intervenor in the nationwide contact lens antitrust litigation brought by private plaintiffs and several state attorneys general against disposable contact lens manufacturers.

## Representative Clients

American Airlines  
Compaq Computers  
Dollar General  
Fibreboard  
Global Crossing  
John Hancock  
Manulife  
Merck  
MicroStrategy  
Nepera  
New York Life  
Owens Corning  
Pacific Mutual  
Phoenix Home Life  
Remington Arms  
Royal Dutch/Shell  
Sony BMG Music Entertainment  
Swedish Match  
Tambrands  
The American General Companies  
The Council for Tobacco Research – USA  
Transamerica  
Waste Management  
Yukos Oil Company



## Selected Representations (cont.)

**PRODUCTS LIABILITY/PERSONAL INJURY LITIGATION.** Debevoise has substantial experience in a variety of multi-jurisdictional and multiple claims products liability representations. In many of these actions, plaintiffs have recast personal injury claims as consumer frauds. Select representations include:

- American Airlines in litigation, including personal injury and wrongful death cases, arising out of the September 11, 2001 attacks.
- Owens Corning, Fibreboard Corporation and other manufacturers of asbestos-containing products as national asbestos counsel.
- Remington Arms Company as national counsel in a variety of matters ranging from individual personal injury suits to class actions to municipal suits brought against the firearms industry.
- The Council for Tobacco Research – USA in the tobacco litigations.
- Compaq in nationwide cases alleging that the company's keyboards caused repetitive stress injuries. Compaq has not lost any of these trials, and we have successfully opposed class certification.
- Tambrands, as national counsel for more than 20 years, in several hundred toxic shock syndrome cases. Tambrands has not lost any of these trials, and we have successfully opposed class certification.
- A Special Committee of the Board of Merck to review the Company's actions before the September 30, 2004 withdrawal of Vioxx.

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# **EXHIBIT F**

# Intellectual Property Litigation

## Who We Are

Debevoise has a highly successful Intellectual Property Litigation Group, led by Bruce P. Keller and David H. Bernstein, consisting of four partners, three counsel, and over 30 associates. Our knowledge and experience cover all areas of intellectual property litigation including trademark, trade dress, false advertising, anti-counterfeiting, unfair competition, copyright, trade secret, patent, first amendment, information technology, domain names and right of publicity.

### TRADEMARK & ADVERTISING

One client describes Debevoise as "[t]he firm that I want as my top-notch litigation counsel and partner in a trademark infringement suit" (*Legal 500 US*, 2007). We have extensive experience in obtaining, and defending against, motions for temporary restraining orders and preliminary injunctions in difficult trademark, trade dress, false advertising and anti-counterfeiting cases. In connection with these cases, we regularly supervise consumer perception surveys and critique the surveys conducted by our adversaries. 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, trade names and domain names.

### COPYRIGHT

Our copyright practice synergistically blends our litigation (including enforcement), licensing and counseling practices. Our lawyers have decades of experience representing clients in copyright law matters in the United States and in several other major jurisdictions. In addition to a particular focus on copyright litigation, in both traditional and new media, we counsel clients on copyright matters arising from new digital technology. We also represent clients in a wide range of transactions and ventures involving the licensing and transfer of copyrights and other intellectual property assets.

### MEDIA & ENTERTAINMENT

Debevoise's lawyers have broad knowledge and experience on a range of litigation issues including representing a motion picture studio, record company, radio and television broadcasters, talent, companies distributing content through new media, Internet-based businesses and publishers. We regularly provide pre-publication and pre-broadcast advice as well as post-publication counseling and litigation defense. We also counsel our corporate clients and litigate in the increasingly busy area of employment-related defamation matters.

### PATENT

We have a burgeoning patent practice, and litigate complex patent infringement claims in courts, the International Trade Commission, and arbitration forums, often in cases involving multi-jurisdictional actions.

### Contacts:

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## What Others Say About Us

U.S. Trademark Firm of The Year.  
MANAGING INTELLECTUAL  
PROPERTY, 2009

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Listed in the top-tier in New York for  
Trademark and Copyright.

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Clients agree that our IP attorneys are  
"excellent adversaries," "always acting on the  
tough, precedent-setting cases" and that our  
"name carries weight with the courts."

CHAMBERS USA, 2009

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Debevoise has an "undisputedly strong  
practice in the field of trademarks" being  
"second to none in terms of reputation and  
service." Clients agree that we are "the  
premier trademark firm in the country."

THE LEGAL 500, 2009

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For representation in federal-level  
trademark litigation, Debevoise is hard  
to beat. "Confident and experienced, this  
team really fights in your corner."

Peers view Bruce Keller as "a devastating  
adversary" and "true master of his craft," and  
clients praise him for his "practical yet  
sophisticated advice."

David Bernstein is endorsed by clients  
as extremely effective in trademark  
suits, with "the kind of creativity that results  
in big, successful ideas."

CHAMBERS USA, 2008

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Bruce Keller is a "highly sought-after IP  
litigator, with a resumé boasting a string of  
high-profile advertising, trademark, and unfair  
competition matters."

PLC YEARBOOK 2008

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"If I had one lawyer I would call on  
something, I would call Bruce."

BENCHMARK LITIGATION, 2010

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Ranked among the top ten law  
firms on the A-List for all seven  
years since its inception.

THE AMERICAN LAWYER

# DEBEVOISE & PLIMPTON LLP

## Selected Representations

- The Association of American Publishers, five publishing houses and a class of publishers in bringing and settling copyright infringement actions challenging Google's digitization of books from U.S. libraries.
- Sony BMG, in class action and regulatory inquiries arising out of XCP copy protection software on musical CDs.
- Sony Pictures Entertainment in a trademark/false advertising dispute involving the battle scene between Spider-Man and the Green Goblin in the hit motion picture *Spider-Man*.
- Sony Pictures Entertainment in a lawsuit brought by Marvel Enterprises and Twentieth Century Fox involving the distribution date for the movie *Zoom*.
- Novartis and Bayer in obtaining injunctions against foreign website operators who were selling gray market pet medicines to United States consumers via the Internet.
- Alcon Laboratories in the successful defense of a preliminary injunction sought by Pharmacia Corporation to enjoin the launch of Travatan.
- Nestlé false advertising challenges against Ross Laboratories over advertising for Isomil Advance and Similac EarlyShield baby formulas.
- Absolut Spirits in defending against claims for misappropriation of trade secrets and theft of the idea arising out of its sponsorship of the reality show *On the Rocks: The Search for America's Best Bartender*.
- Louis Vuitton in a pair of litigations involving infringement and dilution of its S-Lock closure and Epi leather design trademarks.
- Bridgestone in a false advertising challenge against Michelin tires.
- American Express in a false advertising challenge against U.S. Bank over its new FlexPerks credit card.
- Bayer in false advertising challenges against Summit and Elanco over advertising for their competitive flea and tick control products for pets.
- Kraft Foods, a licensee of the South Beach Diet trademark, in a trademark and trade dress infringement dispute against the makers of "South Beach Solutions" meal replacement bars.
- The National Football League in obtaining a summary judgment dismissing a lawsuit that challenged the use of the mark "USA Football."
- Alcon Laboratories, in successful challenges in court and before the NAD against Bausch & Lomb advertising that falsely disparaged Alcon's Opti-Free Express contact lens solution.
- NHL Enterprises (the marketing arm of the National Hockey League) and the Minnesota Wild in a case that had all monetary claims against them dismissed on a motion for summary judgment.

## Representative Clients

Alcon  
Amazon  
American Express  
American Lawyer  
Bayer  
Bridgestone/Firestone  
Mariah Carey  
CBS/Infinity Broadcasting  
CNN  
Chrysler  
Ecko Unltd.  
EMI  
Galderma  
The Gap  
Gallo Winery  
General Electric  
Glacéau  
Hasbro  
Kraft Foods  
L'Oreal  
Louis Vuitton  
McKinsey  
Mike's Hard Lemonade  
Moschino  
National Basketball Association  
National Football League  
National Hockey League  
Nestlé/Gerber  
The New York Times  
Novartis/Ciba  
Pernod Ricard  
Pfizer  
Reuters  
Revlon  
Shell Oil  
Sony  
Take Two/Rockstar  
Tilia  
Unilever  
The Washington Post  
WNET/Channel 13  
Yahoo!

# DEBEVOISE & PLIMPTON LLP

- EMI on copyright issues arising out of music kiosks or vending machines from which consumers can purchase music.
- Pernod Ricard, in successfully defending and resolving a false advertising class action lawsuit in California involving advertising for Stolichnaya vodka.
- Glacéau, maker of VitaminWater, in a temporary restraining order hearing against PepsiCo over the trade dress of PepsiCo's new beverage, LifeWater.
- Tilia, maker of the FoodSaver brand of home vacuum-sealing machines, in patent arbitration and ITC proceedings against Applica over its "knock-off" versions of the FoodSaver machines, sold in the US under the Black & Decker brand.
- Galderma, in successfully defending against multi-jurisdictional patent infringement claims involving its cancer drug Metvix.