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Ernest E. Price is a partner in the Los Angeles office. He joined the firm as a clerk in 1991 and was later admitted to the bar in 1993. Since that time, his practice has focused primarily in the areas of intellectual property litigation, contract litigation, professional liability and real property disputes. He has also handled employment litigation, subrogation actions, environmental insurance coverage, medical malpractice and civil rights issues. He has tried cases as lead counsel in both Federal and State courts in the areas of copyright, trademark, employee fraud, insurance coverage and general business liability.

Mr. Price is responsible for a number of published Federal Opinions in the area of trademark and copyright law, most recently the action of *Classic Foods Int'l Corp. v. Kettle Foods, Inc.*, 468 F.Supp.2d 1181 (C.D. Cal. 2007).

Mr. Price was born in Baltimore, Maryland in 1962. He is a graduate of University of California at Berkeley, served as an officer in the Marine Corps and graduated from the University of San Francisco School of Law and is a member of the State Bar of California and the Los Angeles County Bar Association.

Practice Areas

- ▣ Business And Commercial Litigation
- ▣ Employment Litigation and Dispute Resolution
- ▣ Entertainment
- ▣ Environmental
- ▣ Intellectual Property
- ▣ Copyright, Domain Name and Trademark Litigation
- ▣ Trade Secret Protection and Litigation
- ▣ Professional Liability

Education

- ▣ University of California, Berkeley, 1984 B.A.
- ▣ University of San Francisco School of Law, 1992 J.D.

Court Admission

- California

Memberships & Associations

- Los Angeles County Bar Association
- State Bar of California

Representative Experience

Practice Area: Copyright, Domain Name and Trademark Litigation, Intellectual Property

Key Issues: Trademark Infringement

Venue: Federal Court, Central District, Santa Ana

Client Type: Defendant Delicatessen

We represented the defendant in trademark infringement case. Issue: mid-sized producer of Italian foods sues family-owned delicatessen for infringing on the use of their gourmet food mark used on sandwiches sold to local schools.

Result:

Summary Judgment granted in defendants' favor based on First Sale Doctrine; case declared "exceptional"—defense fees enhanced and returned to client's carrier.

Practice Area: Copyright, Domain Name and Trademark Litigation, Defamation, Intellectual Property

Key Issues: Copyright Infringement

Venue: Federal Court, Southern District, San Diego

Client Type: Defendant Computer Distributor

The plaintiff was a manufacturer and software designer that produces inks and computer "plug-ins" that enables the user to print black and white photos in commonly available desktop printers designed to print photos in color. Our client, was a marketing company that sold the plaintiff's products under contract. Upon termination of the business relationship, the plaintiff accused the defendant of copyright infringement by improperly continuing sales of the software. The defendant was also accused of trade disparagement.

Result:

Pre-trial negotiations yielded an initial demand from plaintiffs of \$2 Million which was further reduced to \$995,000 right before trial. After a two week trial, the jury returned a verdict favorable to plaintiff in the amount of \$155,000 on the trade libel claim only. However, before trial summary judgment was granted in favor of defendant on the copyright infringement claim resulting in defendants being awarded attorneys fees in an amount that exceeded the verdict on the trade libel claim.

Practice Area: Business And Commercial Litigation, Copyright, Domain Name and Trademark Litigation, Intellectual Property

Key Issues: Trademark Infringement

Venue: Federal Court, Central District, Santa Ana

Client Type: Defendant Food Manufacturer

Plaintiff, an international manufacturer of potato chips had manufactured and nationally distributed a product using a specific term 1982. Defendant, a competing potato chips manufacturer had used the same term on its own brand of potato chips since 1986. Neither party had obtained federal trademark registrations for the term.

The plaintiff filed suit for trademark infringement and false designation of origin. Prior to trial the plaintiff voluntarily dismissed all claims for money damages to avoid a jury trial. Upon receiving survey evidence during a two and one half week bench trial, the court rendered a verdict in favor of the defense determining that the term was generic and thus not protectable.

Result:

Settlement negotiations resulted in no agreement to stop use of the term, or payment of monies to the plaintiff. Prior to trial, the plaintiff dismissed all claims for money damages, to avoid jury trial. Two and half week Court trial. Court verdict in defense favor, term deemed generic, free for use by all producers of these types of potato chips. Favorable decision published Classic Foods Int'l Corp. v. Kettle Foods, Inc., 468 F.Supp.2d 1181 (C.D. Cal. 2007).

Practice Area: Business And Commercial Litigation, Copyright, Domain Name and Trademark Litigation, Intellectual Property

Key Issues: Trademark Infringement

Venue: USDC:Central District of California

Client Type: Defendant Food Importer

Plaintiff, a refrigerated meat producer, began to use a Vietnamese term as a trademark in 1986. Our client and the defendant, an Asian food importer, first used the term in connection with dry foods (noodles, rice) in 1992. In 1999 both parties had obtained federal trademark registrations for the term in different trademark classes. A suit and counter-claims were filed in 2005. The issues at trial included whether the plaintiff had abandoned the mark, whether plaintiff's delay in objecting to the defendant's use constituted laches and whether the plaintiff could establish damages.

Result:

Pre-trial settlement negotiations yielded demands by plaintiff ranging from 1.2 million dollars to 1.4 million dollars. Trial demand prior to opening statement was \$900,000.00. After plaintiff's close of case, plaintiff reduced demand to \$700,000.00. Three week jury trial. Jury verdict in defense favor, \$ 0 (zero) dollars in money damages awarded and finding of no willful infringement. Equitable issues of laches currently on appeal.

Practice Area: Employment

Key Issues: Contractual Indemnity; Wrongful Termination

Venue: San Diego County Superior Court

Client Type: Defendant Business Service Provider

A contractual indemnity action representing Issue: Payroll service company's (client) obligation to indemnify on-site Employer for damages as result of suit brought by "wrongfully" terminated employee against both employer and administrative employer.

Result:

Plaintiff settlement demand prior to trial at \$180,000. No resolution prior to trial. Two week Court trial. Court verdict no recovery by plaintiff and no indemnity paid to Cross-defendant; client deemed not responsible for wrongful termination.

Practice Area: Business And Commercial Litigation, Employment

Key Issues: Partnership Act

Venue: Los Angeles County Superior Court

Client Type: Plaintiff Individuals

A partnership dissolution action representing plaintiff. Issue: disaffected partner's interest and value in restaurant business after being improperly expelled by other partners. Represented plaintiff suing for an accounting.

Result:

Pre-trial demand was \$250,000; response \$100,000. One week Court trial—Court found in favor our client plaintiff on all significant issues, valuing clients share of the restaurant at \$154,000 and awarding fees and costs under the Partnership Act (to include expert costs) at \$155,000. Total award to plaintiff, \$309,000.

Practice Area: Intellectual Property, Trade Secret Protection and Litigation

Key Issues: Joint Venture; Breach of Production; Trade Secrets

Venue: Los Angeles County Superior Court

Client Type: Plaintiff Video Distributor

We represented the plaintiff in a cross-complaint in a action between joint venturers for breach of production and video distribution agreements. Key issues involve misappropriation of trade secrets. Obtained favorable verdict following a two-week trial.

Result:

Two week bench trial resulted in money recovery.

Practice Area: Copyright, Domain Name and Trademark Litigation, Intellectual Property

Key Issues: Copyright Infringement

Venue: USDC: Eastern District of Pennsylvania

Client Type: Costume Designer

The district court held that no copyright infringement was shown because the copyright of a costume mask was invalid due to lack of originality.

Result:

During a one week trial, the infringement claim was defended. Defense fees were awarded. Later, malicious prosecution threat resulted in further recovery.