



## Jeffrey A. Barker

Partner

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Jeff Barker is Chair of O'Melveny's Advertising, Marketing & Branding Group. Over a three-decade career, Jeff has tried numerous high-stakes matters in multiple jurisdictions. His clients include many household names in the entertainment, footwear/apparel, consumer electronics, pharmaceuticals, and real estate industries, among others.

Although Jeff regularly handles a broad variety of business disputes in both state and federal trial and appellate courts, he maintains a particular focus on advertising and trademark litigation and counseling. A recognized authority on advertising law, Jeff recently authored the chapter on that subject in the treatise *Business and Commercial Litigation in Federal Courts*, now in its fifth edition.

## Experience

### Advertising, Intellectual Property and Trade Secrets

- Lead counsel for footwear company in bringing trademark infringement, dilution, and unfair competition claims against a competitor arising out use of a confusingly similar product designation. *Skechers U.S.A., Inc. v. Brooks Sports, Inc.*, C.D. Cal. case no. 2:22-CV-04436.
- Co-lead counsel for leading online retailer of fast fashion clothing in trademark infringement, dilution, and unfair competition dispute with athletic-apparel manufacturer. *adidas America, Inc. v. Fashion Nova, Inc.*, D. Or. case no. 3:19-CV-00740.

## Admissions

### Bar Admissions

California

### Court Admissions

US Court of Appeals, Fifth and Ninth Circuits

US District Court, Central, Eastern, Northern, and Southern Districts of California, and the Eastern and Western Districts of Arkansas

## Education

University of California at Los Angeles, J.D., 1993; Chief Managing Editor, *UCLA Law Review*; Distinguished Advocate, UCLA Moot Court Honors Program

Tufts University, B.A., 1989: *summa cum laude*; Phi Beta Kappa

- Co-lead counsel for footwear company in obtaining a defense verdict after bench trial of competitor's Lanham Act and state law trademark infringement claims arising out of product names. *Easy Spirit, LLC v. Skechers U.S.A., Inc.*, 2021 WL 5312647 (SDNY Nov. 16, 2021).
- Co-lead counsel in multiple matters for footwear company in defending at trial and on appeal competitor's Lanham Act and state law trademark and contract claims based on shoe designs and product names. *See, e.g., adidas America, Inc. v. Skechers U.S.A., Inc.*, 890 F.3d 747 (9th Cir. 2018).
- Member of trial team for pharmaceutical company in successfully asserting DTSA and state trade secrets law claims against competitor who misappropriated confidential materials and recruited employees in violation of non-solicitation and non-competition agreements. *Par Pharma., Inc. v. QuVa Pharma, Inc.*, case no. 17-6115-BRM (D.N.J. 2018).
- Co-lead counsel for tax services provider in bringing Lanham Act and unfair competition litigation against competitor arising out of alleged false and misleading advertising. *H&R Block Eastern Enters., Inc. v. Intuit Inc.*, 2013 WL 12129646 (W.D. Mo. Jan. 29, 2013).
- Member of trial team that secured a rare "head start" injunction on behalf of pharmaceutical company against competitor for improperly obtaining and using stolen trade secret customer information. *Allergan, Inc. v. Merz Pharma., LLC*, 2012 WL 781705 (C.D. Cal. Mar. 9, 2012).
- Member of team that defended footwear company against copyright infringement and Lanham Act claims related to advertising and packaging brought by photographer. *Reinsdorf v. Skechers U.S.A., Inc.*, case no. 10-7181 DDP (C.D. Cal. 2013).
- Co-lead counsel for significant music industry figure in resolving privacy, misappropriation, and Lanham Act claims against major motion picture studios.
- Lead counsel for independent producer of documentary films that successfully prosecuted action to recover misappropriated documentary footage.
- Member of team that successfully prosecuted claims of trade dress and design patent infringement on behalf of designer and manufacturer of computers and personal electronics.

#### **Class Actions, Mass Torts and Personal Injury**

- Lead counsel for footwear company in obtaining dismissal with prejudice at the pleadings stage of putative statewide class claims alleging consumer fraud, negligence, and breach of warranty and contract theories arising out of asserted defects in children's lighted footwear. *Guajardo v. Skechers U.S.A., Inc.*, 2021 WL 4302532 (C.D. Ill. Sept. 21, 2021).
- Lead counsel for operator of senior living communities in statewide class action asserting claims under the Americans with Disabilities Act, Unruh Act, and various consumer protection and elder financial abuse statutes on behalf of present and former community residents. *Stiner v. Brookdale Senior Liv., Inc.*, 810 Fed. Appx. 531 (9th Cir. 2020).
- Co-lead counsel for multiple defendants in obtaining dismissal with prejudice at the pleadings stage of 43 nationwide and statewide class actions asserting false advertising and consumer protection statute violations arising out of alleged misrepresentations in connection with pay-per-view boxing match. *In re Pacquiao-Mayweather Boxing Match PPV Litig.*, 942 F.3d 1160 (9th Cir. 2019).
- National counsel for subsidiary of publicly traded pharmaceuticals company in state and federal multidistrict litigation involving over 25,000 product liability claims relating to transvaginal polypropylene mesh products.

- Co-lead counsel for footwear company in nationwide state and federal court litigation involving regulatory, class action, and individual claims for alleged false advertising, consumer protection statute violations, and personal injuries related to rocker bottom and other toning shoes.
- Lead counsel for operator of senior living communities in elder abuse action.

#### Other Business and Accounting Disputes

- Member of trial team that defeated accounting and mismanagement claims against national homebuilder brought by developer seeking hundreds of millions of dollars in damages and, instead, secured a US\$54 million judgment against the plaintiff. *Briarwood Capital, LLC v. Lennar Land Partners II*, case no. GIC 877446 (San Diego Super. Ct. 2011).
- Lead counsel in obtaining dismissal for lack of personal jurisdiction for multinational corporation in action by public utility asserting alter ego and agency liability arising out of US\$100 million power plant dispute. *Fru-Con Construction Corp. v. SMUD*, 2007 WL 2384841 (E.D. Cal. Aug. 17, 2007).
- Member of team that defended the former President, COO, and CEO of Enron in a four-month criminal trial and in numerous civil proceedings.
- Member of team that won a judgment at trial defeating alter ego liability for a publicly traded multinational energy company.

### Professional Activities

#### Clerkships

- Hon. William J. Rea, US District Court, Central District of California

#### Member

- Orange County Bar Association
- Los Angeles County Bar Association
- Association of Business Trial Lawyers
- California State Bar, Intellectual Property Law and Litigation Sections
- Board of Directors, Constitutional Rights Foundation – Orange County
- Emeritus Member and Former Co-Chair, UCLA Entertainment Law Symposium Advisory Committee
- Special Deputy Prosecutor, City of Redondo Beach (*pro bono*)

#### Publications

- Author, Chapter 145 – Advertising, *Business & Commercial Litigation in Federal Courts* (5th ed. 2021) (ABA/Thomson Reuters)
- Co-author, *Winner's Playbook: Behind the Scenes of the Pacquiao Case*, Law360.com (May 13, 2020)

### Honors & Awards

- Named a “Rising Star” for entertainment litigation in a survey conducted by *Law & Politics Media Inc.* and published in *Los Angeles* magazine