



Lathrop Gage Obtains Victory in Lanham Act Trademark Infringement/Unfair Competition Case on Behalf of ABC Carpet & Home

February 12, 2010

Firm client ABC Carpet & Home and its licensee, Rug Renovating, obtained a favorable ruling in the United States District Court Southern District of New York this week, when Hon. Richard Berman found in favor of the Lathrop Gage client in its lawsuit alleging trademark infringement, unfair competition, trademark dilution, cyberpiracy and deceptive acts and practices. Lathrop Gage attorney Thomas Curtin (Intellectual Property - New York) served as lead counsel for ABC Carpet in this matter.

ABC Carpet & Home is a well known industry leader in the field of retail floor coverings, furniture and other home furnishings, with locations in the New York metropolitan area, the state of Florida, and a retail location within Harrod's in London. ABC sued a number of companies as well as the individuals that controlled two of those companies in order to stop these defendants from using the well-known mark ABC for carpet cleaning services. Following the legal arguments posited by Mr. Curtin and his team of William R. Hansen (Intellectual Property - NY), Bernadette Reilly (Intellectual Property - New York), T.J. Fitzgerald (Intellectual Property - New York), and Suzanna Morales (Intellectual Property - New York), Judge Berman granted nearly all of the relief requested on behalf of ABC Carpet, including an injunction prohibiting these defendants from ever using the ABC mark. The defendants are also as a result of the order commanded to provide ABC with the names and addresses of their customers, and must forfeit their Internet domain name as well as the telephone numbers the defendants used.

The court also found the defendants' infringement of the client's ABC mark to be willful, resulting in a trebling of damages as well as an award of attorneys' fees and costs. As noted by the court, in 2007-2008 alone the defendants enjoyed \$918,000 in gross profits, so after trebling and adding in attorneys' fees, any judgment for the client will be well over \$3 million. The matter has been referred to Magistrate Judge Ellis, who will hold a hearing on the amount of damages.

Mr. Curtin has extensive experience in a wide variety of intellectual property issues, particularly in trademark, unfair competition and copyright matters. He has represented Fortune 500 companies in federal courts and before the U.S. Patent and Trademark Office protecting their intellectual property portfolios. He has litigated cases involving claims of trademark infringement, unfair competition, false advertising, dilution,



cybersquatting, trade dress infringement, counterfeiting and copyright infringement. His practice also includes counseling clients on trademark matters, from search and clearance of marks, to prosecuting applications before the U.S. Patent and Trademark Office and litigating opposition and cancellation proceedings before the Trademark Trial and Appeal Board. He is also involved in licensing, internet-related issues and has supervised trademark litigation worldwide.

About Lathrop Gage:

A leading full-service law firm, Lathrop Gage LLP has approximately 300 attorneys in 11 offices nationwide – from Los Angeles to New York, New York. In 2009, *Chambers USA* ranked Lathrop Gage's corporate, environmental, intellectual property, litigation, real estate and labor and employment teams among the best in their regions. For more information, visit www.lathropgage.com.