



**DAVID H. BERNSTEIN**  
**PARTNER**

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David Bernstein is a litigation partner and a member of the firm’s Intellectual Property and International Dispute Resolution Groups. He has litigated a wide range of high profile intellectual property matters including trademark and trade dress infringement and dilution, false advertising, Internet and domain name law, anti-counterfeiting, copyright infringement, right of publicity, misappropriation, trade secret and patent infringement matters. Mr. Bernstein is recognized as an intellectual property “Star” in the *IFLR Benchmark Litigation Guide* (2010). He is ranked in the top tier by *Chambers Global* (2011), *Chambers USA* (2010), *Legal 500 US* (2010), and *World Trademark Review 1000* (2011), where sources note that he is a “leading light,” “a brilliant litigator,” “the dean of the IP litigation bar”; and “a tenacious advocate who wins the respect of the court” and is “respected by all in the industry.” In 2011, *Managing Intellectual Property* magazine selected Mr. Bernstein as the Outstanding IP Litigator of the Year.

Mr. Bernstein’s recent representations include:

- Absolut Spirits, in defending against claims for misappropriation of trade secrets and theft of an idea arising out of its sponsorship of a new television reality show.
- American Express, in advertising claims against U.S. Bank and trademark litigation relating to its exclusive Black Card.
- Bayer and Novartis, in a series of preliminary injunction victories against the illegal importation of foreign pet medicines into the United States.
- Cubaexport and Pernod Ricard, in litigations relating to the famous Havana Club brand of rum.
- Glacéau, in obtaining a temporary restraining order against hair care products that infringed the trade dress of Glacéau’s vitaminwater enhanced water beverages.
- Louis Vuitton, in litigations involving infringement and dilution of its S-Lock and Epi marks.
- Nestlé, in back-to-back victories in false advertising disputes against Ross Laboratories over advertising for Ross’s Isomil Advance and Similac EarlyShield baby formulas.
- Pernod Ricard, in litigations in court, the Patent and Trademark Office, and the National Advertising Division involving trademark and advertising claims related to Stolichnaya vodka.

- The International Trademark Association, in amicus briefs filed in the “Chewy Vuiton,” “Charbucks,” *Chloé v. Queen Bee*, *Levi Strauss v. Abercrombie & Fitch*, *Tiffany v. eBay*, *Rosetta Stone v. Google*, and “Betty Boop” appeals.

Among the reported cases Mr. Bernstein has litigated are *Cubaexport v. U.S. Dep't of the Treasury*, \_\_\_ F.3d \_\_\_ (D.C. Cir. 2011); *FTE v. Spirits Int'l N.V.*, 623 F.3d 61 (2d Cir. 2010); *Charity Group LLC v. Absolut Spirits Co.*, 78 PTCJ 766 (S.D.N.Y. Sept. 30, 2009); *Energy Brands Inc. v. Spiritual Brands, Inc.*, 571 F. Supp. 2d 458 (S.D.N.Y. 2008); *Russian Standard Vodka v. Allied Domecq*, 523 F. Supp. 2d 376 (S.D.N.Y. 2007); *Bayer v. Abbeyvet Export Ltd.*, 81 U.S.P.Q.2d 1605 (S.D.N.Y. 2006); *Novartis Animal Health US, Inc. v. Abbeyvet Export Ltd.*, 409 F. Supp. 2d 259 (S.D.N.Y. 2005); *Novartis Animal Health US, Inc. v. L.M. Connelly & Sons, Pty. Ltd.*, 75 U.S.P.Q.2d 1513 (S.D.N.Y. 2005); *Novartis Consumer Health, Inc. v. Johnson & Johnson-Merck Consumer Pharmaceuticals Co.*, 129 F. Supp. 2d 351 (D.N.J. 2000), *aff'd*, 290 F. 3d 578 (3<sup>rd</sup> Cir. 2002); *Energy Brands Inc. v. Beverage Marketing USA, Inc.*, 2002 WL 826814 (S.D.N.Y. 2002); *General Motors Corp. v. DaimlerChrysler Corp.*, 311 F.3d 796 (7th Cir. 2002); *Debevoise & Plimpton v. Moore*, 2000 U.S. Dist. LEXIS 6126 (D.D.C. 2000); *National Football League v. Coors Brewing Co.*, 1999 U.S. App. LEXIS 32547 (2d Cir. 1999); and *Conopco, Inc. v. 3DO Co.*, 53 U.S.P.Q.2d 1146 (S.D.N.Y. 1999).

Mr. Bernstein is a frequent participant in alternative dispute resolution. He has served as a neutral in ADR proceedings administered by the London Court of International Arbitration, the World Intellectual Property Organization, the International Institute for Conflict Prevention and Resolution (“CPR”), the Hong Kong International Arbitration Centre, and the National Arbitration Forum. Mr. Bernstein also serves on the Executive Advisory Committee of CPR.

Mr. Bernstein is an adjunct professor at George Washington University Law School and New York University Law School where he teaches Advanced Trademark Law. He lectures regularly on intellectual property law and has authored or co-authored numerous treatises, chapters and articles on these issues, including *The Law of Advertising, Marketing and Promotion* (2011); “eBay & the Presumption of Irreparable Harm in Lanham Act False Advertising Cases,” *Computer & Internet Lawyer* (2010); “Trademark and Unfair Competition Issues,” *Internet and Online Law* (updated as of 2010); “Advertising Review, Clearance and Challenges,” *Successful Partnering Between Inside and Outside Counsel* (updated as of 2010); “No Trolls Bared: Trademark Injunctions After eBay,” 99 *Trademark Reporter* 1037 (2009); “Federal Circuit Misapplies Repair Doctrine to Method Patents,” *IP Law* 360 (2006); and “Ethics and Privilege and United States Trademark Practice,” 93 *Trademark Reporter* 1240 (2003). In 2007, Mr. Bernstein won a Barton Award for legal writing. He also was awarded the INTA Volunteer Service Award for his work on the Trademark Dilution Revision Act.

Mr. Bernstein is Past Counsel to INTA. He co-chaired the INTA 2005 Annual Meeting, has served on the INTA Board of Directors, and currently chairs INTA’s U.S. Amicus Brief Subcommittee.

Mr. Bernstein joined Debevoise in 1990. He received an A.B. *magna cum laude* from Princeton University’s Woodrow Wilson School of Public and International Affairs in 1985, an M.Sc. from the London School of Economics and Political Science in 1986, and his J.D. from Yale Law School in 1989. Prior to joining Debevoise, Mr. Bernstein served as a Law Clerk to the Honorable Robert E. Keeton, US District Court for the District of Massachusetts, from 1989-1990.

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