

**DAVID J. WITTENSTEIN**

Member, Washington, D.C.

*Intellectual Property/Media & Information Technologies – Copyright & Trademark;  
Information Technology & Telecommunication Services Procurement; New & Emerging  
Technologies*

*Communications – Cable & Broadband; Communications Policy*

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**BIOGRAPHY:**

David Wittenstein co-heads the Firm's Communications Practice, having previously formed and led the Firm's Media & Information Technology practice. Mr. Wittenstein handles copyright, trademark and related issues for clients in a broad range of industries, with a specialization in the media, telecommunications, technology and education industries. He also advises cable television, broadcast and other communications industry clients on a wide range of regulatory, legislative, and policy issues before the FCC and other regulatory bodies.

In addition to serving as frequent speaker on communications, media, and intellectual property issues, Mr. Wittenstein serves on the Board of Directors for the Washington Legal Clinic for the Homeless, and was an Adjunct Professor at Howard Law School for three years, teaching the law school's copyright and trademark course.

**AREAS OF SPECIALIZATION & REPRESENTATIVE EXPERIENCE:**

**Intellectual Property**

- Represent broadcast and cable clients on programming network affiliation agreements, TV and radio syndicated programming agreements, and other programming agreements.
- Represent, and have achieved favorable outcomes for, numerous companies against allegations that they made unauthorized use of music, newsletters, video, photos, or other copyrighted materials or trademarks.
- Frequently negotiate music licensing agreements with performing rights organizations, music publishers, record labels, and music libraries, as well as other content licensing agreements of various kinds.
- Counseled a new museum on the Woodstock Festival on all copyright, trademark, right of publicity, and other issues relating to thousands of musical works, photos, artifacts, and other materials in museum's public exhibits, and negotiated agreements in connection with these materials.
- Represent numerous parties claiming royalties from the cable and satellite copyright royalty pools, and counsel cable operators on cable copyright royalty payment analyses and strategies
- Successfully represented a satellite superstation carrier in a copyright case of first impression that established the applicability of the copyright law's passive carrier exception.

## **FCC Regulatory and Cable Industry Matters**

- Retransmission Consent and Programming Agreements: Represent cable operators and broadcast companies in negotiating cable retransmission consent agreements and cable operators in negotiating cable network programming affiliation agreements.
- Program Access Rules: Successfully defended cable regional sports networks (RSNs) and major cable operators against AT&T, DirecTV, DISH Network and others in multiple cases under the FCC's Program Access Rules.
- Represent major cable operator on cable and copyright legislative initiatives, including enactment of STELA cable copyright legislation.
- Formation and Acquisition of Cable Networks: Represented major media companies in creating and acquiring cable programming network ventures.

## **Online and New Media**

- Represented media, telecommunications, and Internet companies on legislation ranging from online copyright liability to database protection.
- Represented a consortium of leading newspaper companies in establishing an online advertising and editorial venture with Yahoo!.

## **PROFESSIONAL ACTIVITIES AND MEMBERSHIPS:**

*Bar Admissions – District of Columbia, 1981; Georgia, 1982*

*Court Admissions – United States Court of Appeals for the Eleventh Circuit, 1990; United States Court of Appeals for the Fifth Circuit, 1992*

*Board of Directors, Washington Legal Clinic for the Homeless; Vice Chair and Board of Directors, ADL Washington Region (and Chair, ADL Washington Region Civil Rights Committee)*

*Member – ABA Forum on Communications Law; ABA Section of Patent, trademark and Copyright Law; Federal Communications Bar Association*

*Editorial Board, Duke Law Journal, 1980-1981*

## **HONORS AND AWARDS:**

*Recognized in Best Lawyers in America*

*Recognized in Washington, D.C. Super Lawyers in Intellectual Property*

## **EDUCATION:**

*B.A., magna cum laude, Haverford College, 1978*

*J.D., Duke University, 1981 (Editorial Board, Duke Law Journal)*