

FISH & RICHARDSON P.C.

Intellectual Property | Litigation | Corporate

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Brian M. Rostocki

Practice Areas

Complex Litigation
Business Litigation
Corporate and Securities

Education

Wilmington College B.S. Finance, *summa cum laude*, *Sigma Beta Delta*, *Delta Epsilon Rho*
Widener University School of Law J.D., *magna cum laude*
Articles Editor, *The Delaware Journal of Corporate Law*

Professional experience

Brian Rostocki is an Associate in Fish & Richardson's Delaware office. His practice emphasizes business and complex litigation, primarily in the Delaware Court of Chancery. Prior to joining Fish & Richardson, Mr. Rostocki's practice primarily consisted of representing institutional investors, both public and private, in complex corporate and commercial litigation, as well as in securities actions in federal courts throughout the country. Mr. Rostocki was a Judicial Law Clerk to the Honorable Henry duPont Ridgely, Justice of the Supreme Court of Delaware. Mr. Rostocki received his J.D., *magna cum laude*, from the Widener University School of Law, where he earned numerous honors. During law school, Mr. Rostocki was the recipient of a prestigious Externship, in which he served as a Judicial Extern for the Honorable Myron T. Steele, Chief Justice of the Supreme Court of Delaware.

Representative Cases and Engagements

Corporate Litigation:

In re New York Stock Exchange/Archipelago Merger Litig., N.Y. Sup. Ct., Bus. Div., No. 601646/05 (represented seaholders of the NYSE challenging the merger between the NYSE and Archipelago in which counsel for the NYSE seaholders were credited with adding over \$1 billion in additional value for the NYSE seaholders).

Plummer v. GeoStar Corp., Del. Ch., No. 3085-VCN; *Schoon v. Troy Corp.*, Del. Ch., No. 1677-N (Del. Ch.); *Steel v. Troy Corp.*, Del. Ch., No. 1677-N; *Henne v. Digital River, Inc.*, Del. Ch., No. 2715-N (represented corporations in lawsuits brought under Section 220 of the DGCL for corporate books and records).

Steel Inv. Co. v. Smith, et al., Del. Ch., No. 2511-N (representing corporate directors in derivative action alleging breach of fiduciary duties).

Schoon, et al. v. Troy Corp., Del. Ch. No. 2362-N (representing corporation in action brought under Section 145 of the DGCL involving the advancement and indemnification of litigation cost incurred by current and former corporate directors



Atlanta
Austin
Boston
Dallas
Delaware
Munich
New York
San Diego
Silicon Valley
Twin Cities
Washington, D.C.

and officers).

Tu, et al. v. Walker Fin. Corp., Del. Ch., No. 3280-VCP (obtained dismissal for corporation of an action brought by shareholders seeking appraisal of their shares under Section 262 of the DGCL).

Bernstein, et al. v. Surge Global Energy, Inc., Del. Ch., No. 3411-VCS (represented corporation in action seeking to compel a shareholder meeting under Section 211 of the DGCL and seeking to compel the production of a stockholder list under Section 220 of the DGCL).

Dawson, et al. v. Pittco Capital Partners, L.P., et al., Del. Ch., No. 3148-VCL (representing defendants in connection with an action challenging a merger of an LLC and an amendment to a provision in the LLC Agreement).

Securities Litigation:

In re Tyco Int'l Ltd. Sec. Litig., D.N.H., No. 02-1335 (represented lead plaintiffs and the class in a securities class action involving the securities and accounting fraud at Tyco in which Tyco agreed to pay \$2.975 billion and PricewaterhouseCoopers agreed to pay \$225 million to settle this class action).

Stichting Pensioenfonds ABP v. AOL Time Warner Inc., et al., S.D.N.Y. and *DEKA Inv. GMBH et al. v. AOL Time Warner Inc. et al.*, S.D.N.Y. (represented foreign institutional investors who opted out of a securities class action relating to the merger between Time Warner and America Online in which a settlement representing more than 6 times the clients' share of the class action settlement was obtained).

In re Pfizer Inc. Sec. Litig., S.D.N.Y., No. 04 Civ. 9866 (RO) (represented lead plaintiffs and the class in a securities class action brought against Pfizer and certain of its directors and officers relating to its blockbuster drugs Celebrex and Bextra alleging violations of Sections 10(b), 18, 20(a) and 20A of the Exchange Act).

Commercial Arbitrations and Litigation:

TCW/Camil Holding LLC v. Fox Horan & Camerini LLP, D.Del., No. 03-10717 (represented institutional investor in malpractice claim against its legal counsel in which a judgment as to the law firm's liability was obtained following a bifurcated trial and the case ultimately settled on the remaining damages component of the case).

DigaComm, LLC v. Vehicle IP, LLC, et al., AAA Arbitration, No. 14 180 01850 07 (representing client in commercial dispute in an arbitration before the American Arbitration Association).

Intellectual Property Litigation:

Lucent Tech., Inc., et al. v. Gateway, Inc., et al., S.D. Cal., No. 07-CV-2000 H (CAB); *Multimedia Patent Trust v. Microsoft Corp.*, S.D. Cal., No. 06-CV-0684 H (CAB); *Multimedia Patent Trust v. Microsoft Corp., et al.*, S.D. Cal., No. 07-CV-0747 H (CAB) (representing Microsoft Corporation in patent cases involving video coding technology).