

## CONSUMER PRODUCTS AND SERVICES

Competition and consumerism, as well as the rise of ecommerce, have presented transformative challenges for business-to-consumer and consumer packaged goods and services companies in recent years. Household brands in virtually every category turn to Armstrong Teasdale lawyers for counsel that sets them apart.

Our representations include manufacturers, wholesalers, distributors, designers, licensees, big-box retailers, specialty brands, franchisors and even professional services firms. We also work across market segments from food and beverage to automotive to fashion and design to consumer electronics.

As a firm, we possess the tools and talent to achieve favorable results for clients in the courtroom, in the boardroom and at the negotiation table. Our transactional lawyers guide consumer products companies in establishing robust distribution networks, protecting their brands and trademarks, and implementing compliant and distinctive marketing programs.

In addition, consumer watchdogs can be quick to call foul. Our litigators have extensive experience defending consumer protection and intellectual property lawsuits, and navigating the regulatory challenges presented by complex, multichannel marketing programs. Our litigation team is consistently recognized for successfully handling complex, high-stakes matters for our clients in challenging venues across the country.

The firm also has experience working with franchisors and franchisees on matters related to development and operations, compliance with disclosure laws, contractual relationships and more.

Our lawyers advise some of the world's largest companies on legal matters involving:

- Supply chain management, including contract review and negotiation
- Public relations, marketing, advertising and social media, including sweepstakes, contests and promotions, and working with influencers
- Intellectual property and brand protection, including patent, copyright and trademark services
- Infringement and anti-counterfeiting
- Technology and manufacturing
- Mergers and acquisitions
- Franchising and distribution
- Merchandising and price matching regulations
- Unfair, deceptive trade practices
- Privacy and data security, including data breach response
- Product labeling and claims, including Prop. 65 matters
- Safety and product recalls
- Agribusiness and food
- International business, including customs regulations and export controls, investing overseas and trade compliance
- Litigation, including high-stakes and consumer product class action lawsuits
- Tax law

- Employment and labor
- Antitrust
- Employee benefits and executive compensation

## **EXPERIENCE**

### **Portfolio Management, Strategic Direction for Multiple Consumer Products, Health Care Companies**

Managed global patent portfolios for and provided strategic counsel to multimillion-dollar consumer products and health care companies in the U.S. and abroad, including preparation and prosecution, opinion work, *Inter Partes* Review work and litigation.

### **Judgment in Counterfeit Enforcement Action**

Represented prominent luxury fashion brand in action in the U.S. District Court for Eastern District of New York against counterfeiter. Action terminated with cessation of all infringing conduct, highly favorable settlement, and consent judgment against infringer.

### **Acquisition of Online Apparel Ecommerce Business, Related IP Assets**

Represented an investment firm client in the acquisition at auction of an online specialty retailer's ecommerce business and related intellectual property assets, including trademarks and domain names, as well as merchandise and other assets. Transaction included negotiating asset purchase agreement, participating in bankruptcy negotiations, review of IP contracts, negotiating of loan document, conducting diligence of IP, as well as transition agreement for continued operation of ecommerce websites and onboarding of IP portfolio.

### **Acquisition of Central and Southeastern Missouri Beer Distribution Business**

Represented a St. Louis beer distributor, one of the largest privately held companies in the region and one of the largest distributors of beer, wine, spirits and other non-beer products, in its purchase of a distributing company serving customers throughout central and southeastern Missouri. The acquisition adds to the client's annual distribution volume and further expands its market share in the region.

### **Renegotiation of Nearly 1,000 Retail Leases for Men's Clothing Retailer**

Completed a two-phase renegotiation of nearly 1,000 retail leases across the United States and Canada for a men's retail clothing client in connection with COVID-19 impacts and the client's emergence from Chapter 11 bankruptcy proceedings. In the first phase, we negotiated rent deferral agreements for nearly 400 retail locations in connection with the impact of COVID-19 and related government-mandated closures on the client's operations; and assisted with nearly two dozen litigation matters relating to closures in several states. In the second phase, following the client's declaration of Chapter 11 bankruptcy, we renegotiated nearly 850 retail leases assumed by the client in connection with the bankruptcy proceedings, successfully finalizing and obtaining full execution of nearly 99% of renegotiated leases submitted for legal review, nearly three times the success rate the client had originally anticipated.

### **Counsel to Noteholders for Footwear, Furniture Maker in Chapter 11 Proceedings**

Served as counsel to the noteholders in Chapter 11 bankruptcy proceedings for a footwear and furniture maker.

### **Counsel to Reclaiming Creditors for Discount Drug Store Chain**

Served as counsel to the reclaiming creditors for a chain of discount drug stores in its Chapter 11 bankruptcy proceedings.

### **Significant Victory in Multimillion-Dollar National Class Action for Men's Retailer**



Secured a significant victory for a men's clothing retailer on a motion for summary judgment in U.S. District Court for the District of Maryland. The plaintiffs alleged that certain sales promotions were deceptive and sought certification of a California class, potentially exposing our client to hundreds of millions of dollars in damages. The Court dismissed the lawsuit finding that plaintiffs could not establish that the marketing campaign caused them damage. Earlier, the Court had dismissed requests to certify a nationwide class and a Maryland subclass for similar reasons.

#### **Reversal of \$72 and \$55 Million Judgments**

Armstrong Teasdale attorneys obtained reversal from the Missouri Court of Appeals of two separate judgments – one for \$72 million and one for \$55 million – against our client in cases alleging that the use of personal care products containing talcum powder caused ovarian cancer. This was the subject of media attention around the country and earned trial lawyer Tom Weaver the title of Litigator of Week in the AmLaw Litigation Daily.

#### **Trademark Enforcement for Multinational Consumer Products Company**

Successfully opposed a trademark application for a Fortune 500 multinational consumer products company involving a competitor's mark used to market toilet paper, which bore confusing similarities to the client's mark. The Trademark Trial and Appeal Board found that the identical nature of the goods in question and the similarities between the two marks would likely result in confusion, and refused the competitor's application.

#### **Co-counsel to Retailer in Chapter 11, Post-bankruptcy Proceedings**

Serving as co-counsel to a specialty footwear retailer and its related debtor affiliates in Chapter 11 restructuring and post-bankruptcy proceedings. Client is the largest specialty family footwear retailer in the Western Hemisphere with nearly 4,400 stores across more than 30 countries.

#### **Acquisition of Transportation Services Company**

Counsel to buyer in the acquisition of a transportation services company in a carve-out transaction. The transaction achieved the client's goals of expanding to several key locations in the Minneapolis-St. Paul metropolitan area and establishing key strategic partnerships with regional customers.

#### **Secured Voluntary Dismissal of Consumer Class Action Against Major Clothing Retailer**

Secured the voluntary dismissal of a consumer class action filed against a major clothing retailer in the U.S. District Court for the District of New Jersey. The plaintiff alleged that our client's sales promotions violated New Jersey consumer regulations governing advertisements, potentially exposing our client to liability for millions of dollars in statutory damages. After an appellate decision in another case confirmed the strength of our motion to dismiss arguments, the plaintiff chose to voluntarily dismiss the lawsuit.

#### **\$46 Million in Consumer Brand Acquisitions**

Advised client in acquisitions of a number of consumer brands valued at over \$46 million.

#### **Protection of Global Footwear Company's Intellectual Property**

Represented a global company in the footwear industry regarding the maintenance of its intellectual property portfolio and the protection of its brand.

#### **Obtained Dismissal of Consumer Class Action for Retailer in Illinois**

Obtained a dismissal of putative consumer class action alleging deceptive advertising in U.S. District Court for the Northern District of Illinois. The Court granted the client's motion to dismiss, and when the plaintiff sought appellate review, the Seventh Circuit unanimously affirmed.

#### **\$65 Million Sale of Specialty Home Furnishings Business**

Represented the seller, a manufacturer of specialty home furnishings, in its acquisition by a leading brand aggregator in numerous different consumer products spaces. The sale, for \$65 million in cash and equity, represented the buyer's first



acquisition in the home furnishings space. We also provided counsel on employment, employee benefits, tax, patent, and intellectual property aspects of the transaction.

**Representation of Advertiser in First Amendment Challenge**

Represented a billboard advertiser in a First Amendment challenge to a zoning ordinance preventing off-premise advertising in a successful appeal before the U.S. Court of Appeals for the Sixth Circuit.

**Prosecuted Claims Involving Purchase and Sale Contracts**

Prosecuted claims involving purchase and sale contracts of sea containers, coal, steel, paint, wine, perfume, cloth and clothing for various manufacturers and retailers.

**Enabled Investor to Exercise Conversion Rights, Control over Retail Company**

Enabled an investor to exercise conversion rights, vote his new shares and exercise control over a profitable retail company despite fierce opposition.

**\$9 Million in Sale-Leaseback Arrangements for Menswear Retailer**

Represented a retail menswear holding company in the sale and leaseback of two retail locations, in Missouri and Michigan, and a distribution center in Florida, for a total of approximately \$9 million.

**\$23.4 Million Sale of Corporate Headquarters**

Represented a retail menswear holding company in the sale of its former corporate headquarters in California for \$23.4 million.

**Dismissal of Claims in MMPA Class Action**

Defended client in consumer class action seeking to recover alleged damages in excess of \$5 million. Class asserted products sold by defendant were defective and that the defendant engaged in violations of the Missouri Merchandising Practices Act. Obtained dismissal of plaintiff's claims.

**Outside Corporate Counsel for Global Consumer Products Company**

Outside corporate counsel to a global consumer products company, including prosecution and management of a worldwide trademark portfolio, negotiation of mergers and acquisitions, advice regarding commercial contracts and consumer products liability issues, and handling of data privacy issues.

**Multimillion-Dollar Sale of Supplement Retailer**

Assisted client with eight-figure sale of supplement retailer that operates through large online platform. Transaction included multimillion-dollar cash purchase price and purchaser stock components for seller.

**Dismissal in Consumer Class Action Lawsuit for Sporting Goods Retailer**

Secured the dismissal of a consumer protection and class action lawsuit against a major sporting goods and outdoor equipment retailer filed in the U.S. District Court for the Western District of Missouri. The matter specifically involved claims of alleged violation of the Missouri Merchandising Practices Act, unjust enrichment, and violation of consumer protection laws in 21 other states. The plaintiff sought to represent a nationwide class of customers seeking millions of dollars in damages for alleged violations of various states consumer protection statutes. The court granted the client's motion to dismiss, and the plaintiff did not appeal or seek leave to amend.

**Dismissal of \$1 Billion Class Action Claim**

Successfully defended the operator of a commercial website against a putative class action involving alleged interception of an online customer's personal information, including credit card information, and disclosure of that information to third parties without the customer's consent. The plaintiff argued that this information, which was stored in a browser file before being sent to the website, was not yet a communication to website and that the interception and transmission of that information via JavaScript commands was illegal under the Wiretap Act. The court agreed with the website operator's



arguments and dismissed the action. Plaintiff's counsel was seeking over \$1 billion in damages, making this a significant victory.

**Summary Judgment for Apparel Executive in Million-Dollar Breach of Contract Case**

Obtained summary judgment for an apparel executive in a million-dollar breach of contract action.

**\$95 Million Sale of Leasing Company**

Represented our client, a financing company in the HVAC industry, in a \$95 million sale of a consumer products leasing company.

**Obtained Change of Scope in Anti-Dumping Investigation**

Successfully obtained from petitioner consent to change in the scope of an anti-dumping/countervailing duty investigation by the U.S. government into certain steel racks being imported from China and allegedly sold in the U.S. market at less than fair value.

**International Divestiture for Diversified Private Client**

Represented diversified private company in a multimillion-dollar divestiture of its travel gear distribution business. This transaction involved lengthy negotiations with an overseas buyer and allowed our client to achieve its goal of exiting the travel gear business to further focus on its unrelated core business.

**Won Class Certification for Plaintiffs in Large IoT Liability Case Against Automotive Manufacturer**

Lead counsel for three certified plaintiffs' classes with an estimated 400,000 to 500,000 members, in a case alleging that various cars and trucks suffer from a series of cybersecurity defects that render the vehicles vulnerable to being hacked in a way that would allow hackers to remotely control the vehicles' operational and safety systems, including acceleration, braking, steering and ignition.

**\$14 Million Purchase of Car Rental Company**

Represented client in acquisition of a family-owned car rental company with nine locations, expanding the client's presence in the Milwaukee, Wisconsin market.

**Managed Consumer Class Action Lawsuits for Major Men's Retailer**

Managed multiple consumer class action lawsuits for major men's retailer. Obtained a dismissal of one lawsuit, and have motions to dismiss pending on two additional lawsuits.

**Multimillion-Dollar Personal Injury Toxic Tort Case for Fortune 150 Client**

Tried multimillion-dollar personal injury toxic tort case for Fortune 150 corporation for over 12 weeks in Missouri state court. Represented the client in an appeal to the Missouri Court of Appeals resulting in the reversal of over \$200 million in assessed damages.

**Summary Judgment for Manufacturer in Patent Case**

Obtained summary judgment and favorable resolution for our client, a major manufacturer, regarding six patents in U.S. District Court for the Eastern District of Missouri.

**Obtained Dismissal of Class Action for Service Provider to Consumer Lender**

Obtained dismissal of a class action lawsuit in California Federal Court and compelled arbitration as to the remaining individual claims in a consumer protection action asserting claims under California and federal law.

**Dismissal in Patent Infringement Action**

Obtained order denying plaintiffs request for jurisdictional discovery in a patent infringement action. This resulted in the plaintiff voluntarily dismissing the case against the client.



**Armstrong  
Teasdale**

**Antitrust and Compliance Reviews for Fortune 500 Manufacturer**

Performed numerous on-site antitrust compliance reviews and training for a Fortune 500 multinational manufacturing and engineering services company. Involved travel with in-house counsel to numerous subsidiaries and allowed the client to achieve its compliance program goals and initiatives.

**\$1 Million Judgment in Breach of Contract Case**

Won a judgment for retail client amounting to nearly \$1 million, including attorneys' fees, interest and costs, in a breach of contract case against a national publicly traded retailer.