



Appellate

When clients hire Susman Godfrey, they know they've partnered with trusted litigators they can rely on from the initial filing, to trial, to any appeal work that may follow. Our goal is to pursue justice for our clients, and sometimes that extends beyond trial—whether that means successfully defending a lower court victory or fighting to overturn a less favorable outcome. Our lawyers understand that an appeal is not a second trial, but rather a unique and challenging new stage of litigation. Knowing when to appeal and precisely which issues to pursue is what makes us excellent and skilled appellate lawyers. We've mastered the ability to persuade panels of judges looking not to decipher evidence, but to confirm that the letter of the law was understood and followed in trial court.

Susman Godfrey has strong, nationwide appellate experience that runs the gamut of practice areas and industries—from copyright, patent, trademark and trade secrets, to antitrust, business torts, and securities, to energy, insurance, and entertainment—we do it all. We have briefed and argued significant cases before the Supreme Court of the United States and the federal courts of appeals. Additionally, we're often hired by clients gearing up for an appellate fight who need a favorable outcome, not just in the appellate ruling, but for a subsequent win in the district court.

- ***Universal Cable Productions v. Atlantic Specialty Insurance.*** Universal Cable Productions (UCP)—a subsidiary of NBC Universal—was facing a trial court loss against its insurer, Atlantic Specialty. A federal district court granted summary judgment that Atlantic was not required to provide coverage when Hamas's bombing of Israeli civilian population centers forced UCP to relocate filming of a TV miniseries out of Jerusalem. UCP retained Susman Godfrey to do what it does best—secure a win despite daunting odds. The Ninth Circuit issued a unanimous decision in favor of UCP, reversing the district court's decision, finding that Atlantic "breached"

the policy by denying coverage under the war exclusion, and concluding that Atlantic may have done so in “bad faith,” raising the specter of punitive damages. The case was remanded to the district court which found in UCP’s favor on liability and set a trial date to rule on the issues of damages and Atlantic’s bad faith. The night before trial, the case settled for a confidential amount.

- ***Apache Deepwater v. W&T Offshore***. The Fifth Circuit Court of Appeals unanimously affirmed a \$43.2 million federal court jury verdict in favor of Susman Godfrey client Apache Deepwater LLC against W&T Offshore, Inc. Susman Godfrey represented Apache both at trial and on appeal before the Fifth Circuit. The award is now worth over \$49.9 million including pre- and post-judgment interest and attorneys’ fees. The United States Supreme Court later declined a petition by W&T Offshore, Inc. to review and reverse the Fifth Circuit’s decision upholding a federal district court’s judgment. [Read more](#).
- ***Green Mountain Glass v. Saint-Gobain Containers***. The Federal Circuit summarily affirmed a judgment in favor of our client, Green Mountain Glass, in its patent infringement lawsuit against Ardagh Glass, Inc. The ruling confirmed the \$50.3 million awarded to Green Mountain by a jury in 2017. The original verdict was ranked #34 on *National Law Journal*’s “Top Verdicts of 2017” and was the 4th highest IP verdict of that year. The decision by the Federal Circuit brought the total amount awarded to over \$64 million. [Read more](#).
- ***VHT v. Zillow***. The Ninth Circuit Court of Appeals ruled in favor of Susman Godfrey client, Zillow, in a decision that affirmed the trial court’s rulings for Zillow against claims that it infringed copyrights in tens of thousands of VHT’s real estate photos, and vacated both a \$4 million award against Zillow and a finding of willful infringement for a smaller number of other photos.
- ***Nebraska Investment Finance Authority v. General Electric***. The Court of Appeals for the Second Circuit affirmed an earlier judgment in favor of Susman Godfrey client, General Electric, against the Nebraska Investment Finance Authority (NIFA) in a dispute involving Guaranteed Investment Contracts (GICs) that NIFA purchased from GE. Our team secured the federal court jury verdict valued at more than \$100 million for two GE subsidiaries in their lawsuit against NIFA.
- ***Westlake Chemical v. James Construction***. The Texas Fourteenth Court of Appeals upheld a win on behalf of client Westlake Chemical Corporation. The original verdict for Westlake in its lawsuit against James Construction Group awarded approximately \$4.1 million to Westlake. In addition to affirming the judgment, the appellate court also vacated a \$1.2 million award to James Construction on a counterclaim. [Read more](#).
- ***In re National Football League’s “Sunday Ticket” Antitrust Litigation***. The Ninth Circuit Court of Appeals issued a major published decision reversing a district court’s dismissal of this case in which Susman Godfrey was appointed by the Court to serve as co-lead counsel for DirecTV

subscribers who allege that the NFL, its teams, and DirecTV's agreements relating to the exclusive NFL Sunday Ticket package violate antitrust laws.

- ***Jibe Audio v. Beats Electronics***. The Court of Appeal of the State of California, Second District ruled in favor of client Steven Lamar and Jibe Audio LLC in a case against Beats Electronics, Dr. Dre and Jimmy Iovine over royalties owed to Lamar from the sales of several models of the popular Beats headphones. The Court reversed the lower court ruling that granted a summary judgment in favor of Beats. The Court remanded the case back to the lower court for trial before a jury who ruled in favor of Lamar, awarding him a verdict valued at over \$25 million. The case later settled on confidential terms. [Read more](#).
- ***YH Lex Estates LLC v. HFZ, et al.*** Obtained summary judgment rulings against three different defendants for YH Lex Estates in New York state court over an unpaid debt of approximately \$18 million. Before the trial court, Susman Godfrey won early summary judgment against one of the two guarantors of the real estate project-related loan. The team later won summary judgment on appeal against the real estate firm defendant and the other guarantor. [Read more](#).
- ***BP Exploration & Production et al. v. Claimant ID 100354107***. Represented Walmart in litigation related to BP Exploration & Production's settlement program linked to the 2010 Deepwater Horizon oil spill in the Gulf of Mexico. Successfully defended six awards before six different appeal panels, the district court, and eventually in the Fifth Circuit, which affirmed all of the awards.
- ***Bascom Global Internet Services v. AT&T Mobility***. In a precedent-setting decision, the Federal Circuit revived a patent infringement lawsuit brought by Susman Godfrey client, Bascom Global Internet Services, against AT&T. The ruling overturned a lower court's decision that the Bascom patent was ineligible when viewed under the test established by the US Supreme Court's Alice decision. This is one of the first cases to uphold a software patent under Alice after a string of losses doled out to plaintiffs by the appellate court. Law.com noted that the decision in *Bascom* shows that the "death" of software patents is exaggerated. [Read more](#).
- ***In re Queen's University at Kingston***. In a case on behalf of Queen's University against Samsung, Susman Godfrey secured a first-of-its-kind ruling from the Court of Appeals for the Federal Circuit upholding privilege for patent agents and their clients. In its decision, the Court stated some degree of privilege should extend to communications between US patent applicants and their non-attorney patent agents. [Read more](#).