

TOP INTELLECTUAL PROPERTY LAWYERS 2019

Ian C. Ballon

FIRM

Greenberg Traurig LLP

CITY

Los Angeles, East Palo Alto

SPECIALTY

Copyright, IP litigation

Ballon is co-chair of Greenberg Traurig's global intellectual property and technology practice group and the author of the authoritative references, "The Complete State Data Security Breach Handbook" and "E-Commerce & Internet Law: Treatise with Forms," for which he drafts an updated data security chapter each year.

First published in three volumes in 2000, the tomes have now expanded to five volumes to keep pace with the expanding field.

"I cover an array of cutting edge IP issues, including database protection and screen scraping, AI, linking and information location tools, trade secret protection, rights of publicity, platform liability and defenses and other issues," he said.

Ballon took over as lead counsel — after previous lawyers lost a motion to dismiss — defending the contemporary artist Richard Prince in two copyright infringement suits arising from his Instagram New Portraits series based on existing copyrighted works by others.

In late 2018, Ballon and his team moved for summary judgment, arguing in part that certain materials dissemi-



nated on Instagram and Facebook and incorporated in the two works at issue constituted fair use or were permitted by implied license. The motions are pending. *Graham v. Prince*, 15-CV10160 (S.D.N.Y., filed Dec. 30, 2015); *McNatt v. Prince*, 16-CV08896 (S.D.N.Y., filed Nov. 16, 2016).

The cases, at the forefront of the fair use transformative doctrine, test the boundaries of appropriation and recontextualization by artists. Ballon declined to discuss the cases while they remain in progress.

Ballon has successfully defended eBay Inc. in multiple secondary trademark and patent infringement suits, including one in which a federal judge granted summary judgment for the company on claims of direct and contributory infringement regarding a patent for bee traps because eBay offers a platform where users may list goods for sale but itself does not sell or offer to sell the products bought and sold by users. *Blazer v. eBay Inc.*, 15-CV01059 (N.D. Ala., filed June 24, 2015).

"The most important factor in winning a difficult case is often the strategy adopted at the outset," he said. "The same facts and law may require a different approach depending on the circuit, the assigned judge and other factors. To be effective, it is important to always be thinking several moves ahead and to remain flexible enough to constantly adjust your strategy as a case unfolds."

— John Roemer