

INTERNET LAW - Jury Decision in CollegeNET, Inc. v. XAP Corporation Expands Application of the Lanham Act to Internet Companies

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DLA Piper US LLP has successfully represented CollegeNET, Inc., a leading provider of Internet solutions for higher education, in a dispute against Xap Corporation. At the conclusion of the nine-day trial in U.S. District Court in October, the federal jury awarded CollegeNET \$4.5 million in damages related to unfair competition claims under the Lanham Act and \$4 million after finding that Xap infringed on one of its patents.

Under the Lanham Act, the verdict confirmed CollegeNET's claim that Xap made false or misleading statements in the marketplace regarding the protection of the privacy of student data. The evidence revealed that Xap sold certain information such as social security numbers, names, addresses and dates of birth for at least 600,000 students. CollegeNET's claim was also based upon the false or misleading statements made by Xap to colleges and universities that the data would not be sold.

In addition, the jury upheld the validity of CollegeNET's patent #6,345,278 and awarded CollegeNET for Xap's infringement of that patent.

"This was a significant decision in the future application of the Lanham Act and we are proud to have represented CollegeNET during this complex case," said Art Beeman, a partner in DLA Piper's IP practice and leader of the firm's team that represented CollegeNET. "The DLA Piper team worked diligently to obtain a favorable verdict and the outcome reflects the strength and depth of the firm's IP practice. This case involves a significant application of the Lanham Act that will affect how Internet companies compete now and in the future."

In addition to Beeman, who is based in DLA Piper's San Francisco office, the trial team included Elizabeth Day and Bill Goldman from the firm's East Palo Alto offices. Christine Corbett, Carrie Williamson and Greg Lundell, also based in East Palo Alto, provided assistance in Portland.