

Bird Marella Wins Complete Dismissal of Pandora’s Multimillion-Dollar Antitrust Counterclaim in Comedy Copyright Licensing Suit

On April 5, 2023, a Bird Marella team led by principal [Oliver Rocos](#), including principal [Timothy Yoo](#) and associate [Miri Gold](#), with co-counsel Cravath Swaine & Moore LLP, secured a complete and final dismissal of all counterclaims against its client Word Collections, Inc. in a federal antitrust action brought by Pandora Media, LLC. Bird Marella obtained dismissal of all counterclaims in the case for the second time after [securing a complete dismissal in October 2022](#).

Pandora had alleged that Word Collections, a performing rights collection agency that represents comedians (including Billy Crystal, Bill Hicks, and Jerry Seinfeld) and songwriters (including Metallica), had created a monopolistic portfolio of comedic works and was conspiring with its clients to impose on Pandora a blanket license for those works at a supracompetitive price. Pandora further claimed that Word Collections and its affiliation agreements with its clients were unreasonable in restraint of trade.

U.S. District Judge Mark Scarsi granted Word Collections’ motion to dismiss the initial pleading in October 2022, and made clear in his April 5th order that the amended pleading was no longer compelling.

In dismissing all of Pandora’s claims, Judge Scarsi adopted nearly every one of the arguments Bird Marella advanced, including that Pandora had failed even to allege that Word Collections had the requisite market power, had failed to plead the existence of any antitrust conspiracy, and had failed to show that Word Collections’ agreements with its clients were anything other than run of the mill principal-agent agreements. The Court concluded that, “[I]n its prior order, the Court expressed doubt that Pandora’s pleadings could be amended to adequately state a claim. The analysis of the Amended Counterclaims confirmed this initial impression was correct.”

In an article by [Law360](#), Mr. Rocos stated, “We are thrilled to have secured this excellent ruling, which resoundingly rejected Pandora’s frivolous accusations that Word Collections and its clients engaged in antitrust conduct.”