

LEWIS A. KAPLAN

UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF NEW YORK

Judge Kaplan was appointed United States District Judge for the Southern District of New York on August 9, 1994 and entered on duty August 22, 1994. He received his A.B. with high honors in political science from the University of Rochester in 1966 and his J.D. *cum laude* from Harvard Law School in 1969. He then served as law clerk to Honorable Edward M. McEntee of the United States Court of Appeals for the First Circuit.

Judge Kaplan joined the New York law firm of Paul, Weiss, Rifkind, Wharton & Garrison in 1970 and was a partner in the firm from 1977 until joining the bench. While at Paul, Weiss, he engaged in a litigation practice with emphasis in the areas of antitrust, securities, and intellectual property and served a term as chair of its management committee.

Since his appointment to the bench, Judge Kaplan has handled a number of well known cases. He is presiding over what is believed to be the largest criminal tax case in U.S. history, the prosecution of many former members of the accounting firm, KPMG, and others, for conspiracy to defraud the United States and for tax evasion. He was responsible for the civil antitrust price-fixing cases brought against Sotheby's Holdings, Inc. and Christie's and the companion criminal antitrust case against Sotheby's. He is presiding over two multidistrict litigations – product liability claims relating to the drug Rezulin and federal litigation relating to the failed Italian company, Parmalat. He has been the trial judge in such intellectual property cases as *Universal City Studios, Inc. v. Reimerdes*, in which he held that dissemination of a computer program that decrypts copyrighted motion pictures stored on DVDs violated the Digital Millennium Copyright Act, and *Larson v. Thomson*, which dealt with a claim of joint copyright ownership in the show *Rent* by a dramaturg who worked on the script. In addition, he held in *Faulkner v. National Geographic Society* that the publisher of the *National Geographic Magazine* was privileged under the Copyright Act of 1976 to include in a CD-ROM compilation of all issues of the *Magazine* articles and photographs that appeared in the print version even where the authors and photographers retained copyright in their individual contributions.

Other noteworthy decisions include his 1998 ruling enjoining the City of New York from interfering with the so-called Million Youth March in Harlem on the ground that the regulations relied upon by the City in banning the march violated the First Amendment as well as a 1997 decision upholding the

Welfare Reform Act of 1996 against constitutional challenge.

In recent years, Judge Kaplan served as a member of United States delegations to judicial workshops on intellectual property rights sponsored by the United States Embassies in Italy and Estonia. In 2005 he spoke on trademark counterfeiting at a seminar held by the Embassy of the Republic of France.

The New York State Bar Association Section on Commercial and Federal Litigation in 2007 awarded Judge Kaplan its Stanley H. Fuld Award for “outstanding contributions to the development of commercial law and jurisprudence in New York State.” In 2001, Judge Kaplan gave the Thirty-first Annual Brace Lecture before the Copyright Society of the United States. His publications include *Federal Sentencing: Where Do We Go From Here?*, 223(25) N.Y.L.J. 4:4 (Feb. 7, 2005); *Copyright and the Internet*, 22 TEMPLE ENV. L. & TECH. J. 1 (2003); *Copyright in the Digital Age*, 49 J. COPYRIGHT SOC. OF THE USA 1 (2001); *Keynote Address in Symposium, Beyond Napster: Debating the Future of Copyright on the Internet*, 50 AM. UNIV. L. REV. 414 (2001); *Litigation, Privacy and the Electronic Age*, 4 YALE SYMP. L. & TECH. 1 (2001); *Defending ‘Fraud by Hindsight’ Cases*, AMERICAN BANKER (1992), *Potential Competition and Section 7 of the Clayton Act*, 25 ANTITRUST BULL. 297 (1980), and *Implied Causes of Action*, LITIGATION (summer 1982), and he contributed a chapter on *International Discovery in Antitrust Litigation* in ANTITRUST COUNSELING AND LITIGATION TECHNIQUES.

Judge Kaplan is a Judicial Fellow of the American College of Trial Lawyers, judicial liaison to the Council of the ABA Section of Antitrust Law, and a member of the American Law Institute. He is chair of the Technology Committee of the United States District Court for the Southern District of New York, was a member of the Committee on Automation and Technology of the Judicial Conference of the United States from 1997 through 2003, and has served as a director and member of the executive committee of the Federal Judges’ Association. Prior to joining the bench, he served by appointment of the United States District Court for the Southern District of New York as Special Master in the *Westway* environmental litigation and by appointment of the Appellate Division of the Supreme Court of the State of New York as Special Counsel to the Grievance Committee of the Association of the Bar of the City of New York. He has served also as a Trustee of the Lawyers' Committee for Civil Rights Under Law, a member of the Trustees' Council of the University of Rochester, a Village Trustee, and as a member of the editorial board of the *Bank and Corporate Governance Law Reporter*.