

L. Eden Burgess



**Associate**

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Eden's practice focuses on complex litigation and dispute resolution, primarily in the areas of art, cultural property and museum law, and intellectual property. In art, cultural heritage and museum law, she has represented foreign states, museums, auction houses, major collectors and other entities, both as claimants and claim recipients, in a wide variety of cases. Her intellectual property experience includes patent- and copyright-related trial and appellate cases. Eden also has experience in the bankruptcy area, representing clients in adversary proceedings concerning fraudulent conveyances and preferences, and in environmental litigation, including private contribution actions and brownfield redevelopment efforts. Eden has also been active in alternative dispute resolution.

**REPRESENTATIVE EXPERIENCE**

- *Vineberg v. Bissonnette*, 529 F. Supp. 2d 300 (D.R.I. 2007), *aff'd*, 548 F.3d 50 (1st Cir. 2008). Assisted estate in recovering Franz Xaver Winterhalter's painting *Madchen aus den Sabiner Bergen* from a private collector. The case is a landmark ruling in Holocaust-era art restitution law, being the first in the United States to find that a forced sale is a theft and therefore title does not pass to the buyer.
- *State of Baden-Württemberg v. Shene*, 04-cv-10067-TPG, 2009 WL 762697 (S.D.N.Y. March 23, 2009). Represented German state and museum in its successful recovery of a 16th century volume of prints and drawings from a St. Louis book dealer. The decision – a rare grant of summary judgment in favor of a claimant – highlights the rule that military engaged in overseas combat should be safeguarding and not stealing cultural objects they encounter.
- *Malewicz v. City of Amsterdam*, 362 F. Supp. 2d 298 (D.D.C. 2005), 2006 U.S. App. LEXIS 615 (D.C. Cir. 2006), and 517 F. Supp. 2d 322 (D.D.C. 2007). Served as local counsel, helping pursue recovery of fourteen works of Kazimir Malewicz on loan from the Stedelijk Museum to museums in the United States. The heirs and the City eventually settled the case.
- *Doss, Inc. v. Christie's Inc.*, 08-cv-10577-LAP, 2009 WL 3053713 (S.D.N.Y. Sept. 23, 2009). Defended against negligence and breach of contract claims brought by a collector related to a purchase of a painting, and successfully obtained dismissal due to the expiration of applicable statutes of limitations.

**INDUSTRIES**

Art and Cultural  
Property

**PRACTICES**

Art and Cultural  
Property  
Commercial Litigation  
Environmental  
Intellectual Property  
Counseling and  
Litigation  
Intellectual Property  
Litigation  
Litigation

**EDUCATION**

JD, 2000, *with honors*,  
The George Washington  
University Law School,  
*The George Washington  
University Law School  
Environmental Lawyer*,  
Trial Court Board  
BA, 1996, *with  
distinction*, University of  
Virginia, Echols Scholar

**ADMISSIONS**

Virginia 2003  
District of Columbia  
2002  
Maryland 2000  
US Court of Appeals for  
the Federal Circuit  
US Court of Appeals for  
the Second Circuit  
US Court of Appeals for  
the Fourth Circuit  
US Court of Appeals for  
the DC Circuit  
US District Court for the  
District of Columbia  
US District Court for the  
Eastern District of  
Virginia

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### LANGUAGES

French

- *Marchig v. Christie's Inc.*, 762 F. Supp. 2d 667 (S.D.N.Y. 2011), *aff'd in part*, -- Fed. Appx. --, 2011 WL 2685608 (2d Cir. July 12, 2011). Defended against breach of fiduciary duty, breach of warranty, negligence, and replevin and conversion claims brought by a consignor, arising from 1998 sale of a drawing alleged by some experts to be the work of Leonardo da Vinci and worth over \$100M. The firm successfully obtained dismissal of the case due to expiration of the statutes of limitations and unreasonable delay.
- *Wyers v. Master Lock Co.*, 616 F.3d 1231 (Fed. Cir. 2010). Represented Master Lock Corporation before the U.S. Court of Appeals for the Federal Circuit on appeal of lower court's ruling against Master Lock that the three patents at issue were valid as a matter of law. The Federal Circuit reversed, and issued a significant precedential opinion in Master Lock's favor that interpreted the U.S. Supreme Court's opinion in *KSR v. Teleflex*, expanding the Court's application of common sense as a motivation to combine prior art references to invalidate patents.
- *United States v. Six Paintings Seized From Paul Gorzocoski III, d/b/a Northfield Auctions*, Civ. Act. No. 08-10161-RWZ (D. Mass. 2008). Assisted claimant in recovering six paintings discovered at an auction house in Massachusetts, missing from the Bavarian State Painting Collection (BSPC) since the mid-1940s. The paintings – acquired by BSPC in 1799 and never deaccessioned – were described by the auction house as coming from the estate of a World War II veteran.
- *Bakalar v. Vavra*, 619 F.3d 136 (2d Cir. 2010). On behalf of a group of non-profit organizations as amici, submitted a brief seeking to reverse the lower court's ruling based upon its incorrect interpretation and application of Swiss law. The Second Circuit vacated the district court judgment on other grounds and remanded the case.
- *In the Matter of Certain Flooring Products*, Investigation No. 337-TA-443 and *Alloc, Inc. v. International Trade Commission*, 342 F.3d 1361 (Fed. Cir. 2003). Represented respondent in an action before the International Trade Commission and appeal to the U.S. Court of Appeals for the Federal Circuit, in which complainants sought to prevent import of flooring products due to patent infringement. The ITC found no infringement by the respondents, and the Federal Circuit affirmed.

### PUBLICATIONS

- New Directions in the Federal Circuit: Motivation to Combine *IP and Technology Developments* - April 2011 (April 19, 2011)
- Federal Circuit Holds that Obviousness of Patent May Boil Down to Common Sense (January 4, 2011)
- Contributing Editor, *Yearbook of Cultural Property Law*
- "Museum Governance Developments: Trustees Taking Greater Responsibility" *Yearbook of Cultural Property Law* (2007)
- Co-Author, "Art Market" Chapter in *Yearbook of Cultural Property Law* (2009 and 2010)

## L. Eden Burgess

- Contributor/Assistant, "Art Market" Chapter in Yearbook of Cultural Property Law (2006, 2007 and 2008)

### BRIEFINGS, SEMINARS & SPEECHES

- "What is Art and Cultural Property Law?" (March 23, 2011)
- "What is Art Law? Art, Cultural Property and Museum Law and Practice" (October 21, 2009)
- "Passage of Time in Art Cases," The Catholic University Columbus School of Law, Art Law Seminar (October 2011) (Guest Lecturer)
- "Art and Cultural Property Displaced by War and Other Conflict," George Washington Museum Studies Program (March 2008, March 2009, April 2010 and March 2011)
- "The Foreign Sovereign Immunities Act as Applied to Recent Art Restitution Disputes," The Program on Information Justice and Intellectual Property, American University Washington College of Law (October 8, 2007) (Co-presenter)

### Teacher

- Professorial Lecturer in Law at The George Washington University Law School, *Art, Cultural Heritage, and the Law*

### AFFILIATIONS

- American Bar Association
- Lawyers' Committee for Cultural Heritage Preservation

### IN THE NEWS

- Featured in "Lost and Found: Alumni Help Return Stolen Art and Cultural Artifacts," *Colonial Cable*, George Washington University (November 2011)
- Eden, along with Tom Kline, was featured in the June issue of Legal Bisnow.