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Gibson Dunn Secures Complete Dismissal of Securities Case for Slack

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Gibson Dunn won a complete victory for client Slack Technologies at the Ninth Circuit in a closely watched securities case. In a unanimous, published opinion, the Court ruled in Slack's favor and directed the district court to dismiss the plaintiffs' complaint “in full and with prejudice." This has been a first-of-its-kind case addressing the right to sue under Section 11 of the Securities Act of 1933 in the context of direct listings. This decision comes on the heels of securing a unanimous Supreme Court decision in *Slack Technologies v. Pirani*, where the Supreme Court held that Section 11 imposes a “tracing" requirement under which plaintiffs must plead and prove that they bought shares registered under the registration statement they claim is misleading. After vacating and remanding for the lower courts to address all issues left open in the Supreme Court's decision, the Ninth Circuit decided entirely in Slack’s favor. Addressing plaintiff’s Section 11 claim, the Ninth Circuit held the claim must be dismissed because plaintiff had repeatedly conceded he cannot satisfy the tracing requirement. The Court also rejected other theories raised by plaintiff, including a “statistical tracing” argument (i.e., it is statistically likely that plaintiff bought a traceable share) that securities plaintiffs often raise in Section 11 cases. The Court likewise rejected the plaintiff’s invitation to create a rule that would shift the burden on tracing to defendants. Addressing plaintiff’s Section 12(a)(2) claim, the Ninth Circuit adopted Gibson Dunn's arguments that this statute imposes a tracing requirement identical to Section 11. Accordingly, the Court held this claim should be dismissed for the same reasons. The case is *Pirani v. Slack Technologies* (9th Cir. No. 20-16419). The Gibson Dunn team representing Slack on remand before the Ninth Circuit included partners Thomas Hungar, Michael Celio, Matthew Kahn, Jacob Spencer, and Michael Kahn; and associates Daniel Adler and Matt Aidan Getz.

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Related Capabilities

Securities Litigation

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