

Michael R. Justus

Partner

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Practices

FOCUS: Intellectual Property
Advertising, Marketing and Promotions
Trademarks and Trademark Litigation

Education

JD, Wake Forest University School of Law
BS, Pennsylvania State University

Bar Admissions

District of Columbia
Virginia
Florida

Court Admissions

US Court of Appeals, Fourth Circuit
US District Court, Middle District of Florida
US District Court, Southern District of Florida
US District Court, Eastern District of Virginia
US District Court, Western District of Virginia

Community Involvements

International Trademark Association
National Advertising Division

A tech-savvy litigator and counselor with broad experience in IP, advertising law and novel artificial intelligence (AI) issues, Mike spearheads Katten's firmwide AI Working Group. He brings a strategic approach to the legal protection and enforcement of his clients' IP and creative assets. From counseling on global trademark clearance and protection strategies to filing legal challenges against competitors' misleading ad campaigns, Mike offers a full range of support to his clients and their brands. Mike's experience handling complex matters in IP, advertising, and other legal and regulatory areas converges in his AI practice.

Creative legal strategy informed by business reality

Mike understands that legal strategy and business goals must be viewed together. Similarly, he sees that IP, advertising, and related legal issues often converge and must be dealt with in tandem and in ways that an IP-only or advertising-only specialist may not see. Plus, his understanding of the many facets of branding (from trademarks and logos to packaging and color schemes to the tone and claims used in messaging) allows him to collaborate with clients to solve problems in unique ways.

As the head of our AI Working Group, Mike leads the firm's efforts to track developments related to AI and Generative AI (GenAI) to help clients navigate the evolving legal and regulatory landscape, as well as identify and address risks that AI may present to their businesses. Mike counsels clients regarding unique questions, concerns and challenges arising from the use of GenAI tools involving copyright, confidentiality, right of publicity, trademark, advertising, licensing, and other legal and regulatory areas. Clients rely on Mike to help them strategize and implement policies as well as training programs for the use of GenAI tools by their employees and vendors. He also tracks important case law and legislative updates from around the world regarding AI technologies and conducts trainings for clients' in-house legal departments and business teams. Additionally, Mike frequently delivers presentations on the topics of AI/GenAI and contributes thought leadership articles to publications such as

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Law360, which recently recognized him as a 2023 top guest author on the topic of AI in intellectual property law.

In his trademark practice, Mike handles enforcement and litigation matters in and out of court. He has handled lawsuits before federal courts around the country and numerous proceedings before the Trademark Trial and Appeal Board. Mike also collaborates with local counsel around the world to formulate global enforcement and litigation strategies. His experience includes managing comprehensive trademark enforcement programs for several famous brands in the insurance, fashion, construction and electrical equipment, and aerospace and defense industries. Mike regularly negotiates creative settlements to end or avoid disputes, including through mediation, and he has prepared numerous coexistence, consent, license, assignment and other agreements. He also guides clients through the entire trademark clearance and registration process using customized, cost-effective global protection strategies, from initial selection and clearance of new marks to obtaining US and foreign registrations.

In his advertising practice, Mike handles disputes and advises clients on compliance issues under the Lanham Act, FTC regulations and guidance, NAD precedent, state consumer protection laws, and other laws, regulations and standards. For example, Mike has handled NAD and other disputes involving "Made in USA" claims, "compare to" product labels, social media, online consumer reviews, and a wide variety of performance and comparative claims. He has served as lead advertising counsel for clients in the clothing and health care industries.

Mike is active in the International Trademark Association, currently serving on the Emerging Issues Committee. He is also a member of the Outside Counsel Committee for NAD and served as a member of the Planning Committee for the 2019 NAD Annual Conference. He regularly speaks and publishes articles regarding trademark and advertising.

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Representative Experience

Litigation and disputes

- Represented insurance company in appeal before the US Court of Appeals for the Fourth Circuit with extensive motion practice. Favorable cybersquatting and trademark infringement verdict was affirmed in favor of client.
- Represented construction and mining equipment company in trademark opposition. The Trademark Trial and Appeal Board found that client's mark was famous and that consumer confusion was likely.
- Represented aerospace company in trademark opposition and cancellation proceedings. The Trademark Trial and Appeal Board found that client's mark was famous and that consumer confusion was likely.
- Represented media company in false advertising lawsuit in New York federal court. Obtained summary judgment for client.
- Represented consumer products companies in several NAD challenges with favorable results.
- Represent real estate company in investigation by the FTC.
- Represented kitchenware company in design patent lawsuit in Washington federal court. Obtained dismissal on summary judgment for client.
- Represented consumer products company in trademark infringement lawsuit in Florida federal court. Resulted in favorable settlement for client.
- Represented aerospace company in trademark infringement and dilution lawsuit in New York federal court. Obtained favorable settlement for client.
- Represented sporting goods company in trademark infringement and dilution lawsuit in California federal court. Resulted in favorable settlement for client.
- Represented consumer electronics company in trademark infringement and dilution lawsuit in Texas federal court. Obtained favorable settlement for client.

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- Represented insurance company in trademark infringement and dilution lawsuit in Connecticut federal court. Resulted in favorable settlement for client.

Counseling

- Counsel for clients across various industries regarding novel issues with AI / GenAI.
- Lead advertising review and compliance counsel for major health care company.
- Global trademark counsel for large US-based companies in the paint and coatings, aerospace, and defense industries.
- US trademark counsel for major European fashion brands.
- Advertising counsel for large companies in the food, medical products and clothing industries.

Recognitions

Recognized or listed in the following:

- *Super Lawyers Rising Stars*
 - Washington, DC, 2014–2018

News

- *Law360* Features Michael Justus in Three Year-End Articles on IP and AI Trends (January 3, 2024)
- Katten Named 2024 'Law Firm of the Year' for Trademark Law by Best Law Firms® (November 2, 2023)
- *Law360* Interviews Michael Justus on Trademark Protection for Non-Fungible Tokens (August 22, 2022)

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- Trademark Lawyers Have Become a Key Backstop for Identifying Legal Issues, Michael Justus Tells *INTA Daily News* (November 18, 2021)
- Katten Insolvency and Restructuring Cleans Up at *Global M&A Network* Turnaround Atlas Awards (June 29, 2021)
- Media Takes Note of Katten's Victory on Behalf of Windstream (April 20, 2021)
- Katten Wins Record \$19 Million+ Award for Client Windstream In False Advertising Case Arising Out Of Windstream's Chapter 11 (April 12, 2021)
- Katten Team Obtains Summary Judgment of Liability for Windstream in False Advertising Matter (December 20, 2019)
- Michael Justus talks to *Bloomberg Law* about influencers' copyright issues on social media (July 3, 2019)
- Katten Attorneys Selected to 2018 Washington, DC *Super Lawyers*, Rising Stars Lists (May 11, 2018)
- Katten Attorneys Recognized in 2017 Washington DC *Super Lawyers*, Rising Stars Lists (April 24, 2017)
- Katten Names 13 New Partners (July 8, 2016)
- Katten Fights Hunger With Regatta, Raising More Than \$12,000 for Food From the Bar (June 29, 2016)
- Eight Katten Attorneys Named to 2016 Washington, DC *Super Lawyers* Ranking (April 21, 2016)
- Eleven Katten Attorneys Named to 2015 Washington, DC *Super Lawyers* List (April 16, 2015)
- Michael Justus Quoted in AMA's *Marketing News* Article About Registering and Protecting Trademarks (February 3, 2015)
- Ten Katten Attorneys Recognized in 2014 Washington, DC *Super Lawyers* Rankings (April 25, 2014)

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Publications

- Financial Markets and Funds *Quick Take* (Newsletter) | *Author*
- *The Katten Kattwalk* (Triannual) | *Contributor*
- *Kattison Avenue* (Quarterly) | *Contributor*
- *Kattison Avenue/Katten Kattwalk* | Issue 3 (Winter 2024)
- District Court Refuses to Dismiss Putative Class Action Challenging Meaning of 'Carbon Neutral' Claim (January 16, 2024)
- *Kattison Avenue* | Issue 11 (Fall 2023)
- Five Takeaways From Bellwether AI Copyright Case (October 3, 2023)
- Privacy, Data and Cybersecurity *Quick Clicks* | Issue 9 (September 2023)
- Privacy, Data and Cybersecurity *Quick Clicks* | Issue 5 (May 18, 2023)
- The FTC's AI Guidance Offers A Path For Ad Compliance (May 15, 2023)
- *Kattison Avenue* | Issue 10 (April 26, 2023)
- Alternatives to IP Litigation That Can Work for Brand Owners (January 24, 2023)
- Is the Metaverse a Giant 'Native Advertisement'? (September 28, 2022)
- *Kattison Avenue* | Issue 9 (Fall 2022)
- FTC Goes on Penalty Offense, Warns of Hefty Fines for Deceptive Advertising (May 12, 2022)
- FTC Warns Massive List of US Companies Not to Deceive Consumers With False Endorsements and Reviews (October 15, 2021)
- When Your Trademark Is a False Advertisement (April 13, 2018)
- Reminder: Action Required by December 31 To Avoid Losing DMCA Safe Harbor Protection (October 20, 2017)
- Copyright Office Rule Changes Require Website Owners to Take Action to Benefit From DMCA Safe Harbor (December 2, 2016)

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- The Laws of Influence (November 29, 2016)
- The FTC's Native Advertising Settlement With Lord & Taylor Highlights the Commission's Enforcement Priorities Under Its Recently Issued Guidance (March 31, 2016)
- FTC Issues Much-Anticipated Guidance Regarding "Native" Advertising (January 4, 2016)
- Your Trademark Could Be a False Advertisement (June 2, 2015)
- Supreme Court Gives TTAB Decisions Preclusive Effect Over Federal Court Infringement Actions in Limited Circumstances (March 25, 2015)
- Ad Law in the Digital Age (November 26, 2014)
- Supreme Court Inks Uniform Standing Test for Lanham Act False Advertising Claims (April 8, 2014)
- Trademarks Online: The Good, the Bad and the Uncertain (January 16, 2014)
- "Offbeat Page in the Branding Playbook: Savvy Companies are Leveraging Nontraditional Trademarks in the Sports Industry and Beyond," *National Law Journal* (October 22, 2012)
- "Click-Through Forum Selection Clause Rejected," *The Licensing Journal* (March 1, 2012)
- "*Coach, Inc. v. Gata Corp.*, 98 USPQ2d 1911 (D.N.H. 2011)," *IPFrontline* (July 22, 2011)
- "IP Addresses for IP Attorneys: A Primer on Emerging Issues," BNA's *Patent, Trademark & Copyright Journal* (July 22, 2011)
- "No One Owns The Cloud," *InformationWeek* (January 24, 2011)
- "Cleared for Knock-Off: Counterfeiting at 30,000 feet," *BlueSky Business Aviation News* (December 9, 2010)
- Co-author, "Worldwide Certification-Mark Registration a Certifiable Nightmare," *Bloomberg Law Reports* (Republished in *Bloomberg Law Quarterly* and *Landslide* (ABA)) (December 14, 2009)

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- "Trade Dress Protection: Eye Candy," *Medical Marketing and Media* (April 1, 2009)

Presentations and Events

- ANA Advertising Law 1-Day Conference (March 20, 2024) | *Co-Presenter* | *The Latest on AI*
- How Companies are Calibrating Risk Tolerance for Generative AI, and AI and Legal Ethics: A risk-benefit analysis (July 25, 2023) | *Speaker* | *How Companies are Calibrating Risk Tolerance for Generative AI*
- ANA Law 1-Day Conference (July 19, 2023)
- Brand Activation Legal Committee Meeting (November 17, 2022)
- Brand Activation Legal Committee Meeting (December 16, 2021)
- INTA Annual Meeting (November 15–19, 2021) | *Moderator* | *The Holistic Brand Lawyer: Stretching Your Practice Beyond Trademarks*
- The Realities of Virtual Litigation (January 27–February 17, 2021) | *Speaker* | *Remote Trial Practice*
- NAD Annual Conference (September 23–24, 2019) | *Moderator*
- Brand Activation Legal Webinar (August 14, 2018) | *Presenter* | *Your Trademark May Be A False Advertisement*
- Technology and IP Forum: Copyright Law Updates and Best Practices (July 31, 2018) | *Moderator*
- Technology and IP Forum: Digital Advertising Updates and Best Practices (July 13, 2017) | *Moderator*
- What to Expect When You're Expecting a Millennial (November 16, 2016) | *Moderator*
- BAA Government & Legal Affairs Update: June 2016 (June 23, 2016) | *Panelist*
- INTA Annual Meeting (May 21–25, 2016) | *Moderator*

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- 10th Annual Intellectual Property Law Institute (April 26–27, 2016) | *Panelist*
| *Get Ready: Here Come the Millennials*
- International Trademark Association Annual Meeting (May 2–6, 2015) |
Moderator | *Big Data and New Issues for the Trademark Practitioner*
- Trademark Administrators & Practitioners Meeting (October 12–15, 2014) |
Panelist | *Cease What?* | *Panelist* | *TMA & YP in Litigation/Working Together*
- INTA/USPTO Industry Training Seminar: Trademarks and Big Data (July 29, 2014) | *Panelist* | *Big Data and Trademarks*