

Michael W. Rafter

Partner

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Services

Advertising Counseling & Disputes
Clearance & Portfolio Management
Intellectual Property
Trademark Litigation
Trademark, Copyright &
Advertising

Industries

Consumer Goods
Food, Restaurant & Beverage

Mike Rafter focuses his practice in the area of trademark law, with an emphasis on managing large international trademark portfolios, including clearance, prosecution, and enforcement of trademark rights. He serves as trademark counsel for some of the largest and most well-known brands in the world.

Mike helps brand owners implement cost-effective strategies to clear and protect new trademarks and, when necessary, enforce rights in their existing marks. He provides straightforward, practical advice and has particular experience with the protection of non-traditional marks (e.g., color), trade dress (e.g., product configuration or packaging), and marks at risk of losing distinctiveness (i.e., marks that an infringer might allege have become “generic” and therefore, cannot be protected).

Mike regularly manages trademark litigation, opposition, and cancellation proceedings in Europe, Asia, and South America and has extensive experience in U.S. Courts and the Trademark Trial and Appeal Board. He has recommended and successfully resolved trademark disputes through mediation and has resolved false advertising disputes through binding arbitration as well as proceedings before the National Advertising Division (“NAD”) of the Council for Better Business Bureaus.

Mike’s legal career was enhanced by his early role as a Judge Advocate in the United States Army where he spent four years serving as in-house counsel for the 1st Cavalry Division and later the Army’s Recruiting Command. A few years after joining the firm, he was seconded to a *Fortune* 500 client of the firm to serve as



one of its in-house trademark counsel. Both experiences gave him first-hand knowledge of the demands facing in-house counsel.

Mike is the leader and co-founder of KT PROUD, Kilpatrick Townsend's LGBTQ Employee Resource Group, and serves on the firm's Diversity & Inclusion Committee. He was a 2017 Leadership Council on Legal Diversity (LCLD) Fellow. He also has served on the Board of Directors of the Stonewall Bar Association (Georgia's LGBTQ bar association) and on Lambda Legal's Atlanta Leadership Committee.

Mike is rated *AV Preeminent*® by Martindale-Hubbell*, and has been recognized in *The Best Lawyers of America* in the field of Trademark Law each year since 2007.

Experience

Managed the worldwide clearance for the new loyalty rewards brand of Marriott, one of the largest hotel chains in the world, as well as worldwide clearance and registration program for the re-branding of Marriott's SHERATON brand logo. Those projects involved more than a dozen KTS attorneys and paralegals, as well as foreign counsel in more than 130 countries.

Led a team of 15 KTS lawyers and paralegals and dozens of foreign counsel in connection with a time-sensitive worldwide clearance of potential company names/trademarks for the \$8B+ merger of two of world's leading paper and packaging companies.

Managed the worldwide clearance of potential company names/brands for the \$2.5B+ spin-off of DuPont's Specialty Chemicals Business.

Manages the global trademark portfolio of Acuity Brands, one of the world's leading providers of lighting fixtures, lighting controls and related products and services. Since we began representing the company, we have managed more than 2,000 registrations and applications in more than 90 countries throughout the world.

Serves as U.S. trademark counsel for a leading European manufacturer of outdoor lawn, garden, agricultural and construction power tools.

Successfully represented Georgia-Pacific in the expedited arbitration of a case involving false advertising claims in its competitor's nationwide television, radio, and print campaign for paper towels. Obtained injunction and award of attorneys' fees. *Georgia-Pacific Corp. v. The Procter & Gamble Co.*, No. 03-2957 (N.D. Ga. filed Aug. 30, 2003).

Obtained a permanent injunction and damages in trademark counterfeiting action against a retailer and individuals that sold counterfeit KATE SPADE handbags. *kate spade LLC v. Georgia Pen & Pencil d/b/a Davran's*,

et. al., No. 03-0128 (N.D. Ga. filed Jan. 16, 2003).

Successfully settled copyright litigation involving architectural works on behalf of David Weekley Homes. *Frank Betz Assocs., Inc. v. Weekley Homes, L.P. d/b/a David Weekley Homes*, No. 05-1563 (N.D. Ga. filed June 14, 2005).

Represented a *Fortune* 500 brewery to secure a judgment as a matter of law that there was a likelihood of confusion between our clients mark and the defendants mark. We prevailed on summary judgment on their unfair competition counterclaims and then successfully defended against an appeal and a petition for certiorari.

Represented a leading manufacturer of erosion control products in proceedings before the National Advertising Division (NAD) of the Council for Better Business Bureaus in which a competitor alleged that certain of the manufacturers advertisements were false or misleading.

Managed the global trademark portfolio of a \$1.5B+ global consumer products manufacturer. We provided strategic counseling about the selection and clearance of new marks, and managed contentious trademark proceedings for the company throughout the world.

Represented United Industries Corporation (d/b/a Spectrum Brands) in trademark litigation against a competitor and successfully settled the matter through mediation. *Pennington Seed, Inc. & Pennington Seed of Nebraska, Inc. v. United Industries Corp. d/b/a Spectrum Brands*, No. 03:07-CV-00098-CDL (M.D. Ga. filed Aug. 30, 2007).

Managed the global trademark portfolio for Krispy Kreme Doughnuts. We assisted the company in expanding its operations into dozens of new countries in Europe, Asia, and the Middle East. In addition to clearing and registering new marks, we assisted the company with licensing its marks and managed trademark disputes in numerous countries throughout the world.

Represented a *Fortune* 500 brewery and obtained injunctive and other relief against fifteen companies and individuals in trademark and copyright infringement litigation involving infringing decals, drug paraphernalia, apparel, and other products.

Represented a *Fortune* 500 brewery and obtained a permanent injunction and other relief in a trademark infringement and counterfeiting action involving apparel depicting infringing designs.

Managed the global patent and trademark portfolios for a leading company in the synthetic turf industry, which owned one of the most iconic brands in the industry. We provided strategic counseling about the protection of that brand and managed trademark disputes in multiple countries.

We provide extensive trademark counseling to a large non-profit humanitarian organization. We manage the



organization's domestic and international trademark portfolio and represent the organization in domestic oppositions at the Trademark Trial and Appeal Board, as well as in international oppositions and enforcement matters in numerous countries.

Represented United Pet Group, Inc., a leading global manufacturer of pet products, in trade dress litigation against a competitor. Case settled favorably after we filed for preliminary injunction. *United Pet Group, Inc. v. Salix Corp. et al.*, No. 09-03323 (E.D.N.Y. filed July 31, 2009).

Represented Georgia-Pacific in false advertising litigation against major competitor. Successfully settled prior to preliminary injunction hearing. *Georgia-Pacific Consumer Products LP v. The Procter & Gamble Company*, Case No. 1:09-CV-0729 (N.D. GA 2009).

Education

Mercer University B.A. *summa cum laude*

Mercer University Walter F. George School of Law J.D. *cum laude*

Admissions

Georgia

New York

Court Admissions

Supreme Court of Georgia

U.S. Court of Appeals for the Armed Forces

U.S. Court of Appeals for the Eleventh Circuit

U.S. Court of Appeals for the First Circuit

U.S. District Court for the Central District of California

U.S. District Court for the Northern District of Georgia

U.S. Supreme Court

Professional & Community Activities

Atlanta Legal Aid Society, Past President, Board of Directors

International Trademark Association, Member

Lambda Legal, Atlanta Leadership Committee

Leadership Council on Legal Diversity (LCLD), 2017 Class of Fellows, Member

National LGBT Bar Association, Member



State Bar of Georgia, Intellectual Property Section, Member
Stonewall Bar Association, Board of Directors

Insights

News

Kilpatrick Townsend Attorneys Garner 37 Rankings on the 2021 International Who's Who of Business Lawyers
October 29, 2021

News Releases

Kilpatrick Townsend Attorneys Honored in the 2022 Edition of The Best Lawyers in America
August 19, 2021

News Releases

Kilpatrick Townsend Attorneys Achieve 41 Individual Rankings on the 2019–2020 International Who's Who of Business Lawyers
November 12, 2020

News Releases

Record-Breaking Recognition for Kilpatrick Townsend in The Best Lawyers in America© 2021
August 20, 2020

Events

Hot Topics Around the Globe
October 24, 2019