



**MICHAEL J.
MCCUE**

Partner

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Las Vegas, Silicon Valley

"Incredibly effective in a lead outside IP counsel role and as a litigator, McCue delivers insightful advice and great results." - World Trademark Review 1000

Michael McCue is a partner in the firm's Intellectual Property Practice Group. Michael provides trademark services from clearance through registration, enforcement, and litigation. As both a litigator and trademark prosecution lawyer, Michael has the perspective and knowledge to ensure that his clients' trademark portfolios are developed, managed, and enforced in a manner that maximizes their value and strength in the United States and around the world. Michael takes a pragmatic and cost-effective approach to trademark work and provides a high level of client service. He has litigated hundreds of trademark cases in federal courts throughout the United States and before the Trademark Trial and Appeal Board of the United States Patent and Trademark Office, including cases involving some of the most famous trademarks in the world. He has a near perfect record in obtaining summary judgment for clients in even highly complex cases. He also has extensive experience with brand protection, trade show seizures, and domain name recovery.

In addition to trademark services, Michael also counsels clients on related rights, including copyright, trade dress, design patents, trade secrets, and rights of publicity. Michael has particular expertise in the technology, retail, fashion, hospitality, and entertainment sectors and has represented clients such as MGM Resorts International, Visa, Restoration Hardware, NBCUniversal, NIKE, Lucky Brand, HDMI Licensing, Las Vegas Sands, and Electronic Arts.

Practices

- Intellectual Property
- Copyright
- Intellectual Property Litigation
- Trademark
- Anti-counterfeiting and Seizure
- Intellectual Property Due Diligence
- Licensing and Transactions
- Domain Name and UDRP Proceedings
- Trade Secrets, Unfair Competition, and Non-Competes
- Interactive Gaming
- Patent

Industries

- Sports, Entertainment, and Recreation
- Entertainment
- Fashion and Apparel
- Retail
- Food and Beverage
- Hotels and Resorts
- Gaming
- Restaurants, Retail, and Hospitality

“An extremely effective trademark and trade dress litigator” who “has handled numerous high-profile disputes.”

- *World Trademark Review 1000*

“For clearance, prosecution and enforcement, he adopts a keen, thoughtful and strategic approach. With a calm, confident demeanour, he is simultaneously assertive and amicable when dealing with opposing parties – a difficult balance to strike, but McCue does it brilliantly.”

- *World Trademark Review 1000*

- Sports

Education

- J.D., University of Virginia School of Law, *Virginia Law Review*, 1990
- B.A., University of Virginia, 1985

Bar Admissions

- California, 2013
- Nevada, 1996
- Washington, D.C., 1991
- Virginia, 1990

Court Admissions

- U.S. Supreme Court
- U.S. Court of Appeals, Federal Circuit
- U.S. Court of Appeals, Fourth Circuit
- U.S. Court of Appeals, Ninth Circuit
- U.S. District Court, District of Nevada
- U.S. District Court, Eastern District of Virginia
- U.S. District Court, District of Columbia
- U.S. District Court, Central District of California

Community

- Federal Bar Association Nevada Chapter, President, 2005
- International Trademark Association, Designs Committee Member

- Asian Bar Association of Las Vegas, Board of Directors

Representative Matters

Trademark Cases – Federal Court

- Won summary judgment on nine claims in an action involving use of the VISA mark in marketing the co-branded Black Card credit card. *Black Card v. Visa*, 2:15-cv-00027 (D. Wy. 2017).
- Successful representation of Hungarian navigation software company in trademark, copyright and DMCA actions against multiple defendants, recovering millions of dollars in damages. *NNG v. Epsilon*, 2:16-06943-RSWL-JC (C.D. Cal. 2017) and *NNG v. AVA Enterprises dba Boss Audio*, No. 14-cv-00220-ODW (C.D. Cal. 2016).
- Successful representation of licensor of the HDMI mark against company accused of using HDMI mark without a license. *HDMI Licensing v. One Diamond Electronics*, No. 3:16-cv-879 (S.D. Cal. 2016)
- Obtained ex parte temporary restraining order during SEMA trade show in an action involving infringement of the TOYO mark for tires. *Toyo Tire and Rubber Co. v. Toyomoto (Beijing) International Trading Co.*, 2:14-cv-1847 (D. Nev. 2014).
- Won summary judgment for NIKE in a trademark infringement action regarding alleged infringement of the BOOM YO! mark. *Tovey v. NIKE*, Civ. No. 1:12-cv-0448 (N.D. Ohio 2014).
- Prevailed in reversing district court's dismissal of trademark infringement action against out-of-state infringer based on lack of personal jurisdiction. *Bellagio v. Bellagio Shoes*, 12-16235 (9th Cir. 2014).
- Obtained ex parte seizure order for OtterBox during CES in action for trademark counterfeiting and design patent infringement involving iPhone cases. *Otter Products, LLC v. Anke Group Industrial Limited*, 2:13-cv-29 (D. Nev. 2013).
- Won summary judgment on a trademark infringement claim for Shaquille O'Neal in a case involving the SHAQTUS mark and character. *Mine O'Mine v. Calmese*, 2:10-CV-0043 (D. Nev. 2010), aff'd, 12-15915 (9th Cir. 2012).
- Represented Weyerhaeuser in trademark infringement action against Bosch Tools regarding use of the iLevel mark. *Weyerhaeuser v. Bosch Tool*, Civ. No. 2:2011cv01793 (D. Nev. 2011).
- Successful representation of Electronic Arts in a trademark dilution and infringement action against Energy Armor regarding use of EA mark. *Electronic Arts v. Energy Armor*, Civ. No. 3:2011cv04184 (N.D. Cal. 2011).
- Successful representation of G4, an NBCUniversal network, in a trademark infringement and cybersquatting action against a company using the XPLAY mark. *G4 Media, LLC v. XPlay Links*, 2011 WL 1770535 (D. Nev. 2011).
- Prevailed on a trademark dilution claim for Visa International against a company that adopted and used the eVISA mark. *JSL Corp. v. Visa International Service Association*, 610 F.3d 1088 (9th Cir. 2010).
- Prevailed on trademark infringement claim for MGM against fraudulent online gaming sites operated out of China, Hong Kong, and Taiwan. *MGM MIRAGE v. Lei*, 2:10-CV-0074 (D. Nev. 2010).
- Successful representation of E! Entertainment in a trademark infringement dispute involving the DALLAS DIVAS AND DAUGHTERS mark. *E! Entertainment Television v. Savid Management*, 2:10-CV-219 (C.D. Cal. 2010).

- Successful representation of Visa in trademark dispute involving CHOOSE YOUR OWN ADVENTURE mark. *Visa U.S.A., Inc. v. Chooseco, LLC*, CV-09-5559 (N.D. Cal. 2009).
- Successful representation of Vegas.com in trademark infringement action and companion antitrust action. *Tix Corp. v. Vegas.com, LLC* (C.D. Cal. 2010).
- Successful representation of homebuilder against competitor's use of SMART-formative marks. *Pardee Homes USA Inc. v. Beazer Homes Holding Corp.*, 2009 WL 1811836 (D. Nev. 2009).
- Successful representation of owner of the MONTE CARLO Resort and Casino in trademark infringement action filed by the owner of the Casino de Monte-Carlo in Monaco regarding the use of the MONTE CARLO mark for hotel and casino services. *Société Des Bains De Mer Et Du Cercle Des Etrangers À Monaco v. MGM MIRAGE*, 08-CV-03157 (S.D.N.Y. 2008).
- Successful representation of Nav N Go, a Hungarian navigation software company, in a trademark infringement action regarding the NAV N GO and NAVIGON marks. *Nav N Go Kft v. Navigon Inc.*, 1:08-cv-2135 (N.D. Ill. 2008).
- Won summary judgment in favor of NIKE in a trademark infringement action by the owner of the "PROVE IT" mark. *Calnese v. NIKE, Inc.*, 2:06-cv-1959 (D. Ariz. 2008).
- Successful representation of publisher of LOS ANGELES CONFIDENTIAL magazine in a trademark infringement action by the owner of LA CONFIDENTIAL mark. *Caplin v. Los Angeles Confidential Media, LLC*, 2:07-cv-7842 (C. D. Cal. 2007).
- Prevailed in opposing preliminary injunction and in obtaining transfer for lack of jurisdiction in trademark infringement action against Mandalay Bay and world-renown chef Michael Mina involving use of the STRIPSTEAK mark. *Glazier Group v. Mandalay Corp.*, 2007 WL 2021762 (S.D. Tex. 2007).
- Successful representation of Andre Agassi's company in right of publicity and trademark infringement action against Target arising from Target's use of the AGASSI name on footwear. *Agassi Enterprises, Inc. v. Target Corporation*, 2007 WL 4441195 (D. Nev. 2007).
- Successful representation of David Cassidy and DRDC Entertainment in trademark disputes and transactions regarding THE RAT PACK IS BACK! mark. *DRDC v. TRP Entertainment*, 2:05-cv-873 (D. Nev. 2005).
- Obtained summary judgment in favor of Cirque Productions on genericness of the term "cirque" in an action brought by Cirque du Soleil. *Dream Merchant v. Cirque Productions, Inc.* (D. Nev. 2003).
- Won maximum statutory damages and lawyers' fees against cybersquatter. *Mirage Resorts, Inc. v. Cybercom Productions*, 228 F. Supp. 2d 1141 (D. Nev. 2002).
- Won summary judgment for trademark dilution in favor of several major resort hotel casinos. *Mirage Resorts, Inc. v. Stirpe*, 152 F. Supp.2d 1208 (D. Nev. 2000).
- Won summary judgment for trademark infringement in favor of Houdini's Magic against Hardeen Houdini, an alleged descendant of Harry Houdini. *Houdini's Magic, Inc. v. Hardeen Houdini* (D. Nev. 1998).

Trademark Cases – Trademark Trial and Appeal Board

- Counsel in more than 100 opposition and cancellation proceedings in the TTAB, including for Visa, NBCUniversal/Entertainment, Nant, Electronic Arts, Restoration Hardware, MGM Resorts International, and Las Vegas Sands.

Cybersquatting Cases – Federal Court and UDRP

- Counsel in numerous cybersquatting cases resulting in recovery of hundreds of domain names for clients, including MGM, Visa, Las Vegas Sands.

Copyright Cases

- Representing leading navigation software company in a copyright infringement and DMCA action against seller of navigation devices. *NNG v. Epsilon*, 2:2014-cv-00220 (C.D. Cal. 2014).
- Representing MGM Grand in copyright action involving alleged infringement of copyrights in photographs. *Erickson v. MGM Grand*, 1:2013cv00564 (S.D.N.Y. 2013).
- Represented CityCenter in copyright action involving a dispute over copyrights in wall coverings. *CityCenter Land, LLC v. Stacy Garcia*, 2011 WL 3654745 (D. Nev. 2011).
- Successful representation of MGM in copyright action involving carpet design. *Soroush v. MGM MIRAGE*, 8:08-cv-02579-PJM (D. Md. 2008).
- Obtained dismissal of copyright action against NBCUniversal, Full Tilt Poker, and Poker PROductions in copyright infringement action involving television show concept. *McSmith v. NBCUniversal*, 2:10-cv-00870 (D. Nev. 2011).
- Won summary judgment in favor of Biotech Pharmacy and Biodose LLC in a copyright infringement and DMCA action filed by Cardinal Health involving software. *Cardinal Health v. Biodose LLC*, 2:03-cv-472 (D. Nev. 2006).
- Won reversal of an order denying a motion to preliminarily enjoin use of copyrighted architectural plans where a builder exceeded the scope of a copyright license. *LGS Architects v. Concordia Homes of Nevada*, 434 F.3d 1150 (9th Cir. 2006).
- Won summary judgment in a landmark case holding that scanning a copyrighted work for the purpose of creating a derivative work constitutes copyright infringement. *Tiffany Design. v. Reno-Tahoe Specialty Inc.*, 55 F. Supp. 2d 1113 (D. Nev. 1999).

Patent Cases - Federal Court and ITC

- Counsel for Lucky Brand in ITC action involving alleged patent infringement by denim retailers. *In the Matter of Certain Laser-Abraded Denim Garments*, ITC (2014).
- Representing Wal-Mart in a patent infringement case. *Acorne Enterprises, LLC v. Bed Bath & Beyond, et al*, 2:12-cv-3:12-cv-00602 (D. Nev. 2012).

- Obtained TROs and seizure orders in action involving infringing designs of athletic footwear during the World Shoe Association trade show. *NIKE, Inc. et al v. QiLoo International Limited*, 2:12-cv-00223 (D. Nev. 2012); *NIKE, Inc. v. Romeo & Juliette, Inc.*, 2:06-cv-00323 (D. Nev. 2007); *Nike, Inc. v. Meitac Intl. Enter. Co. Ltd.*, 2:06-cv-01389 (D. Nev. 2007); *Nike, Inc. v. Air-Max Import & Export, Inc.*, 2:06-cv-00169 (D. Nev. 2006).
- Successful defense of infringement action involving virtual call center patent. *Alto Ventures, Inc. v. Convergys Corp.*, 2:11-cv-01433 (D. Nev. 2012).
- Obtained TRO and preliminary injunction against company infringing utility patents for furniture. *Lifetime Products, Inc. v. Ningbo Wanxiang Plastics Products Co., Ltd.*, 2:10-cv-01166 (D. Nev. 2010).
- Won summary judgment based on sale bar and failure to disclose co-inventor in a patent infringement action. *Ericson Group, Inc. v. Digital Sports Graphics, Inc.*, 2007 WL 2891928 (D. Nev. 2007).
- Successful defense against TRO and preliminary injunction based on alleged design patent infringement during the World Shoe Association trade show. *Calzados Anatomicos Calana, S.L. v. Helle Comfort, Inc.*, 2:06-cv-00172 (D. Nev. 2007).
- Successful defense against alleged infringement of patent for method and system for interactively transmitting multimedia information over a network with reduced bandwidth. *1st Technology LLC v. IQ-Ludorum, PLC*, 2:06-cv-00934 (D. Nev. 2007); *1st Technology LLC v. IQ-Ludorum, PLC*, 2:06-cv-00323 (D. Nev. 2007).
- Obtained preliminary injunction and final consent judgment against companies selling leisure furniture that infringed Agio's design patents. *Agio International Company, Ltd. v. Bond Manufacturing Company*, 2:04-cv-01373 (D. Nev. 2004); *Agio International Company, Ltd. v. Gracious Living Industries*, 2:05-cv-927 (D. Nev. 2006).
- Local counsel for Bayer and Spectrum Pharmaceuticals in ANDA cases. *Bayer Healthcare Pharmaceuticals Inc. v. Watson Pharmaceuticals, Inc.*, 2:08-cv-00995 (D. Nev. 2012); *Bayer Schering Pharma AG et al v. Sandoz, Inc.*, 2:09-cv-00802 (D. Nev. 2012); *Spectrum Pharmaceuticals v. Sandoz*, 2:12-cv-111 (D. Nev. 2012).

Trade Secrets Cases

- Won temporary restraining orders and/or preliminary injunctions in five separate actions involving non-competition covenants and misappropriation of trade secrets in favor of an international specialized staffing company in cases in Arizona, Nevada, New Mexico, and Washington.

Rights of Publicity

- Represented clients in defending rights of publicity claims involving use of names and photographs in advertising, décor, and merchandise.

Transactions/Counseling

- Trademarks/copyrights: U.S.-based and international counseling, clearance, prosecution, enforcement, audits, licenses, co-existence agreements, assignments, independent contractor agreements, employee agreements, due diligence,

and style guides.

- Patent/trade secrets: U.S.-based and international counseling, enforcement, licenses, assignments, employee agreements, and due diligence.

Honors & Recognitions

- The Best Lawyers in America, Woodward/White, Aiken, S.C., Copyright Law, Trademark Law, and Patent and Trademark Litigation, 2013-2022
- World Trademark Review, WTR 1000, The World's Leading Trademark Professionals, 2018-2022
- The Best Lawyers in America - Lawyer of the Year, Copyright Law, Trademark Law, and Patent and Trademark Litigation, 2013-2021
- Managing Intellectual Property, IP Star (Nevada), 2014-2021
- Vegas Inc., Top Lawyers, Intellectual Property, 2021
- Mountain States Super Lawyers, 2012 in Business, Intellectual Property Litigation, 2010-2020
- The Best Lawyers in America - Lawyer of the Year, Copyright Law, 2019
- The Best Lawyers in America - Lawyer of the Year, Trademark Law, 2017
- Client Choice Award, 2015
- Who's Who Legal USA, Trademark work
- Trademark Insider, Ranked, Trademark filings
- Nevada Business Magazine, 2013 "Southern Nevada Best," 2012 "Top 150," 2011 "Top 100," Legal Elite, 2011- 2013
- Martindale-Hubbell, "AV/Preeminent Attorney" rating
- Martindale.com, "Top 10", Trademark case volume
- CSC Trademark Insider, "Top 50 Trademark Attorney," 2008

News

- Lewis Roca Lawyers Named in 2022 World Trademark Review (WTR) 1000 Directory Honors & Recognitions | 03/3/2022
- Lewis Roca Lawyers Named to 2022 *Best Lawyers* List Honors & Recognitions | 08/19/2021
- Lewis Roca Lawyers Recognized as IP STARS 2021 Honors & Recognitions | 06/17/2021
- Lewis Roca Lawyers Named in 2021 *WTR 1000* Directory Press Release | 02/17/2021

- Lewis Roca Lawyers Recognized as The Best Lawyers in America© 2021
Press Release | 08/20/2020
- Two Lewis Roca Lawyers Named IP STARS 2020
Honors & Recognitions | 06/18/2020
- Lewis Roca Lawyers Recognized as 2020 Mountain States Super Lawyers® and Mountain States Rising Stars®
Press Release | 06/15/2020
- Lewis Roca Rothgerber Christie Recognized in 2020 WTR 1000 Directory
Honors & Recognitions | 02/13/2020
- Lewis Roca Lawyers Recognized as The Best Lawyers in America© 2020
Press Release | 08/15/2019
- Lewis Roca Rothgerber Christie Attorneys Recognized as 2019 Mountain States Lawyers® and Mountain States Rising Stars®
Honors & Recognitions | 05/31/2019
- Lewis Roca Rothgerber Christie Lawyers Named IP STARS 2019
Honors & Recognitions | 05/20/2019
- Lewis Roca Rothgerber Christie Lawyers Recognized by 2019 WTR 1000 Directory
Honors & Recognitions | 01/15/2019
- Lewis Roca Lawyers Recognized as The Best Lawyers in America© 2019
Press Release | 08/15/2018
- Lewis Roca Rothgerber Christie Lawyers Recognized as 2018 Mountain States Super Lawyers® and Mountain States Rising Stars®
Honors & Recognitions | 06/11/2018
- Lewis Roca Rothgerber Christie Attorneys Named IP STARS 2018
Lewis Roca Rothgerber Christie LLP announced five attorneys have been named IP STARS 2018
Honors & Recognitions | 05/21/2018
- Four Lewis Roca Rothgerber Christie Attorneys Named to 2018 World Trademark Review's "WTR 1000" Directory
Directory focuses exclusively on trademark practices and practitioners, identifying the trademark industry's leading practitioners in 72 jurisdictions around the world
Press Release | 02/23/2018
- Partners Honored as Lawyer of the Year by Best Lawyers
85 Lewis Roca Rothgerber Christie attorneys in The Best Lawyers in America 2018
Press Release | 08/15/2017
- Lewis Roca Rothgerber Christie Attorneys Named in 'Best Lawyers'
11 partners also honored as 'Lawyer of the Year' in The Best Lawyers in America® 2017
Honors & Recognitions | 08/15/2016

- Twenty-Three Lewis Roca Rothgerber Christie Attorneys Named Mountain States Super Lawyers
Annual listings reflect peer recognition and professional achievement
Honors & Recognitions | 06/14/2016

Publications

- An Intellectual Property World Defining and Protecting Rights
Quoted, *Nevada Business Magazine*, 01/1/2022
- U.S. Law Applies to Trademark Infringement by Foreign Companies in Foreign Countries
Author, *International Trademark Association (INTA) Bulletin*, 12/8/2021
- TTAB's Rare Cancellation of a Registration Based on Fraud
Author, *International Trademark Association (INTA) Bulletin*, 10/13/2021
- Trademark Procedures and Strategies: United States
Co-Author, *World Trademark Review Yearbook 2021/2022*, 07/29/2021
- Trademark Modernization Act Makes Injunctions Easier
Co-Author, *International Trademark Association (INTA) Bulletin*, 02/10/2021
- New Guidelines for Generic.com Terms
Author, *International Trademark Association (INTA) Bulletin*, 01/6/2021
- Willful Trademark Infringement Not Required
Author, *International Trademark Association (INTA) Bulletin*, 05/15/2020
- When Will I be Famous?: Protecting Well-Known Foreign Marks in the United States
Co-Author, *World Trademark Review*, 04/3/2020
- Trademark Procedures and Strategies: United States
Co-Author, *World Trademark Review Yearbook 2020/2021*, 03/17/2020
- Protecting Your Intellectual Property
Quoted, *Nevada Business*, 04/1/2019
- Choose Your Weapon: Litigating Trademarks US-Style
Author, *World Trademark Review*, 10/29/2018
- Trademark Procedures and Strategies: United States
Co-Author, *World Trademark Review Yearbook*, 09/11/2018
- Data Protection: WHOIS Ready to Enforce Your Trademarks?
Co-Author, *World Trademark Review Online Brand Enforcement*, 02/23/2018
- Counterfeiting is Growing at an Astounding Rate
Co-Author, *INTA Bulletin*, 2017-03-01
- Alternative Strategies for Fighting Counterfeits Online
Author, *World Trademark Review*, 2017-02-01

- US Trademark Law Chapter
Co-Author, *World Trademark Review Yearbook*, 12/1/2016
- United States: Trademark Dilution and Clearance
Author, *World Trademark Review*, 2016-11-01
- URS versus UDRP Proceedings – Choosing the Right Forum
Co-Author, *World Trademark Review Online Brand Enforcement*, 02/1/2016

Blog Posts

- Protecting Your Intellectual Property – Law Practices Booming
Lewis Roca Blog, 04/1/2019

Events

- Speaker, “Trade Shows: IP Rights Enforcement in the U.S. and Internationally,” IP Chat Channel, November 2018
- Panelist, “Intellectual Property Rights Enforcement at Trade Shows,” UNLV William S. Boyd School of Law International Perspectives and Best Practices Conference, October 2018
- Speaker, “Ambush Marketing,” International Trademark Association, Annual Meeting, May 2016
- Speaker, “The State of the US Legal Market,” Legal Week Global Independent Law Firms Forum, March 2013
- Speaker, “Trademark Litigation: A 2013 Update,” The Knowledge Congress Live Webcast Series, March 2013
- Speaker, “Top 10 Legal Mistakes Made in Advertising and Marketing,” American Marketing Association, September 2011
- Speaker, “Intellectual Property Law for General Practitioners,” Nevada State Bar, June 2011
- Speaker, “The Law of Advertising on the Internet,” Association of Corporate Counsel, March 2011
- Panelist, “The American dimension - how independent law firms can best approach the US market,” Legal Week Independent Law Firms Forum, March 2011
- Speaker, “The Law of Intellectual Property,” Training Seminars, 2011
- Speaker, “Using Copyrights in the Battle Against Counterfeiting,” International Anti-counterfeiting Coalition Annual Meeting, November 2010
- Speaker, “Intellectual Property Issues Faced by Chinese Companies at U.S. Trade Shows,” China Council for the Promotion of International Trade, December 2009
- Speaker, “Secondary Liability for Trademark and Copyright Infringement,” Utah Cyber Symposium, September 2009
- Speaker, “Marketing and Advertising: Doing Business on the Internet,” iTech Law Conference, May 2009
- Speaker, “Hot Topics in Intellectual Property,” Association of Corporate Counsel, February 2009
- Speaker, “What Your Company Should Know About Intellectual Property,” Casino Fest Conference, September 2009

- Speaker, “Intellectual Property: What Everyone Needs to Know,” G2E, November 2007
- Speaker, “Trademark Dilution,” San Francisco and Los Angeles Intellectual Property Law Association, May 2006
- Speaker, “Internet Marketing,” American Marketing Association, February 2004
- Speaker, “Copyright Law and the TEACH Act,” National Media Market, 2003