



David L. McKenzie Attorney

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David McKenzie is a trial and appellate attorney with a focus on intellectual property. With appearances in over 60 trials, David is known for litigating matters to verdict before all levels of North Carolina courts, both federal and state (including the North Carolina Business Court). He also is part of the Olive & Olive team handling matters before the Trademark Trial and Appeal Board. David has a strong background in cyberlaw, entertainment and art law, unfair competition, constitutional law, and appellate matters.

David's litigation practice has included matters pertaining to copyright (including international copyright), trademark and patent infringement, antitrust, the interplay between free speech and intellectual property protection, misappropriation of trade secrets, constitutional questions (including freedom of speech, assembly, and religion), constitutional violations (including claims under 42 U.S.C §§ 1981 and 1983.), breach of contract, and other business torts. David has also handled transactional work including intellectual property and contracts.

In court, David has fended off injunctions under the Computer Fraud and Abuse Act, secured dismissals under the Electronic Communications and Privacy Act, persuaded a jury to find a California law firm not liable for trade secret misappropriation, secured dismissal of a patent suit under new database jurisprudence, and

persuaded a judge that state law claims were preempted by the Copyright Act. Although Olive & Olive does not accept matters outside the intellectual property field, David's past experience as a business litigator and in business formation helps him provide common-sense advice with an understanding of the interplay of intellectual property matters with other areas of the law.

Areas of Focus

- Appellate Law
- Intellectual Property Law
- Technology
- Civil Litigation
- Federal Litigation

Off hours

David was born in Boone, NC and raised in Clemson, SC. He returned to NC to attend Duke University and never left. True to his Carolina roots, he loves barbecue in all its glorious flavors, but if pressed he will admit a preference for vinegar style.

Did you know?

David studied for the ministry and served as pastor to several churches before launching his legal career. He is a member of Saint Paul's Lutheran Church in Durham.

Practice Areas

- Alternatives to Litigation
- Contracts - Agreements
- Disputes
- Domain Disputes
- Lawsuits

- Patent & Trademark Office Proceedings
- Trademark Enforcement
- Copyright Enforcement

Education

David received his undergraduate degree from Carson-Newman College in Jefferson City, Tennessee, and went on to earn a Master of Divinity from Duke University and his Juris Doctorate from North Carolina Central University, both in Durham.

- Carson-Newman College (undergraduate)
- Duke University (Master of Divinity)
- North Carolina Central University (J.D.)

Affiliations and Honors

David is listed in 2013-2017 Super Lawyers®. The National Institute for Trial Advocacy has recognized him with its "Advocate" designation and more recently (2021) "Master Advocate". David also has contributed to complex, highly cited intellectual property academic research and has substantially contributed to three editions of a leading casebook on intellectual property. Two Duke Law scholars comment about David in a book published by Stanford University Press:

- We are both indebted beyond words to our friend and colleague David McKenzie, a member of the North Carolina bar, who . . . has taken the lead in coordinating and completing the myriad and formidable [tasks that] we have asked of him[.] It is both fair and accurate, though no doubt still inadequate, to say that David's thorough and untiring efforts have improved this work immeasurably while enabling us to bring it to its conclusion. We are deeply grateful to him.
- David Lange and H. Jefferson Powel, *No Law: Intellectual Property in the Absolute Image of the First Amendment* (Stanford University Press).

States Admitted to Practice

- North Carolina (2007)

Courts of Admission

- North Carolina State Courts
- North Carolina Federal Courts
- NC Business Court
- U.S. Trademark Trial and Appeal Board

Memberships

- American Bar Association (Forum on Sports & Entertainment Law; Section on General Civil Litigation; Section on Intellectual Property Law)
- North Carolina Bar Association
- Fourteenth Judicial District Bar
- Durham County Bar Association (member, Board of Directors)

Recognition and Honors

- Super Lawyers® (2013-2017) - selected by Super Lawyers to "Rising Stars"
- National Institute for Trial Advocacy ("Advocate" designation)