



Marc C. Levy

OF COUNSEL

EDUCATION

Harvard Law School
J.D. (cum laude) 1989

University of California –
Berkeley
Philosophy
A.B. 1986 Phi Beta Kappa

INDUSTRIES

Software & Internet
Consumer Products & Services

PRACTICES

IP Litigation & Enforcement

BAR ADMISSIONS

Colorado
Washington

COURT ADMISSIONS

U.S. District Court for the
District of Colorado
U.S. District Court for the
Eastern & Western Districts
of Washington
U.S. Court of Appeals for the
Eighth, Ninth, Tenth &
Federal Circuit

BACKGROUND

Marc C. Levy's practice is focused on intellectual property litigation and enforcement with an emphasis on trademark and unfair competition matters. Marc applies his extensive litigation and trial experience towards helping his clients protect and enforce their brands by providing strategic brand management counseling. He received his A.B. in Philosophy from the University of California–Berkeley in 1986, and his J.D., cum laude, from Harvard Law School in 1989.

HONORS AND AWARDS

- Listed in *The Best Lawyers in America*® – Intellectual Property Litigation, 2013-2023
- *World Trademark Review* (WTR) 1000 – The World's Leading Trademark Professionals, 2014-2022
- Top Rated AV Preeminent™ IP Lawyer, Martindale-Hubbell®, 2002-2022
- Listed in *Chambers USA*–Notable Lawyer, Intellectual Property, Colorado, 2015

EXPERIENCE

Marc brings more than 25 years of experience in intellectual property litigation and trial work with a concentration in trademark, false advertising and unfair competition cases. In the trademark area, he has extensive national experience in preliminary injunction hearings, trials and appeals in federal courts, as well as inter partes proceedings at the Trademark Trial and Appeal Board. He has represented clients in these matters, including preliminary injunction hearings and trials, in federal trial and appellate courts across the country. In the advertising arena, Marc has not only represented clients in the federal courts, but also at the National Advertising Division of the Better Business Bureau.

Marc is an Adjunct Professor of Law at the University of Colorado Law School where he teaches Trademark and Unfair Competition Law.

AFFILIATIONS

Marc is admitted to the state bars of Washington and Colorado. He is admitted to practice in the U.S. District Court for the District of Colorado, the U.S. District Court for the Western District of Washington, the U.S. District Court for the Eastern District of Washington, the U.S. Court of Appeals for the Eighth Circuit, the U.S. Court of Appeals for the Ninth Circuit, the U.S. Court of Appeals for the Tenth Circuit and the U.S. Court of Appeals for the Federal Circuit. Marc is also a member of the International Trademark Association (INTA).

SELECTED PUBLICATIONS

Chapter 7, Defendant's Profits in *Trademark Infringement Remedies* (Second Edition): BNA, ABA Section of Intellectual Property Law, 2013

The Presumption of Irreparable Harm in Trademark Cases: Vol 20, No.4, *Intellectual Property Litigation*, American Bar Association, Summer, 2009

From Genericism to Trademark Significance: Deconstructing the De Facto Secondary Meaning Doctrine: 95 *The Trademark Reporter* 1197 Nov./Dec., 2005

SELECTED PRESENTATIONS

Trademark Workshop/Case Study: Selecting an Effective and Protectable Brand - Moderator, 13th Annual Rocky Mountain Intellectual Property Institute, Westminster, CO, May 2015

Recent Developments in the Smorgasbord of Food Labeling Class Actions - ABA Section of Litigation Conference, Snowmass, CO January 2015

Responding to the Rise of High Profile Consumer Fraud Class Actions: How to Strengthen Cooperation Between Legal & Marketing to Develop a Risk-Based Marketing Message - 3rd Advanced Regulatory Compliance Summit on Food & Beverage Marketing and Advertising, Washington, D.C., July 2013

The Intersection of Trade Dress and Design Patents, Using Apple v. Samsung as a Foundation, Discussing Trade Dress/Design Patent Litigation - 11th Annual Rocky Mountain Intellectual Property + Technology Institute, Westminster, CO, May 2013

Green & Healthy! Best Practices in Green Advertising and Making Health-Benefit Claims - 10th Annual Rocky Mountain Intellectual Property & Technology Institute, Westminster, CO, June, 2012

Food Ad Wars: When and How to Challenge Your Competitors' Comparative Advertising Claims - ACI Food & Beverage Advertising Conference, Washington D.C., February 2012

Red Flags in False Advertising - Rocky Mountain Intellectual Property Institute, Colorado Bar Association, Denver, CO, May, 2009

Fraud on the Trademark Office After *In re Bose* : Can Trademark Owners Stop Worrying Now? - Practicing Law Institute, National Webinar, September, 2009

Advertising Law: A Primer - IP Law for the Non-IP Lawyer, Washington State Bar Association, Seattle, WA, September, 2008

Kate Spode & Louis Buitton: Combating International Counterfeiting - Rocky Mountain Intellectual Property Institute, Colorado Bar Association, Denver, CO, June, 2008

REPRESENTATIVE CASES

Represented major international pipe fitting manufacturer in defending patent infringement suit filed by Berkshire Hathaway subsidiary. Case resolved through settlement (*RLS v. Conex Universal Ltd.*, S.D. Ill.)

Successfully obtained preliminary injunction on behalf of nutritional supplement manufacturer against maker of Slimfast barring use of BIOPURE trademark. Case settled promptly thereafter (*Biopure Healing Products v. Wellnx Life Sciences, Inc.*, W.D. Wash.)

Successfully obtained summary judgment on behalf of Amazon.com, Inc. dismissing claim of trademark infringement based on Amazon's search engine's response to a query for plaintiff's brand of watches. Summary judgment affirmed by the Ninth Circuit (*Multi Time Machine, Inc. v. Amazon.com, Inc.*, U.S. Court of Appeals, Ninth Circuit & C.D. Cal.)

Trial counsel for Pacific Bioscience Laboratories, an affiliate of L'Oreal USA and maker of the Clarisonic skin care system, in which the jury awarded our client more than \$11 million based on findings of willful patent infringement, willful trade dress infringement and willful false advertising. (*Pacific Bioscience Laboratories v. NutraLuxe MD*, W.D. Wash.)

Co-trial counsel for Thermos, Inc. in jury trial in which Thermos obtained defense verdict dismissing claim of trade dress infringement made by owner of Stanley brand insulated bottle (*Pacific Marketing v. Thermos*, W.D. Wash.)

Co-counsel for Ultreo, Inc. in successful defeat of motion for preliminary injunction by Procter & Gamble against maker of new ultrasonic power toothbrush (*Procter & Gamble v. Ultreo, Inc.*, S.D.N.Y.)

Represented Crocs in trade dress and design patent infringement case against maker of knock-off products (*Crocs v. Australia Unlimited*, D. Col.)

Represented maker of Sonicare toothbrush in jury trial of false advertising lawsuit against Gillette, the manufacturer of the competing Braun-Oral B product (*Braun v. Optiva*, S.D.N.Y.)