

Timothy B. McCormack
Attorney at Law
www.McCormackLegal.com

Expertise

- **Eleven Years Intellectual Property & Business Law**
- **Experienced Litigator in State and Federal Courts**
- **Speaker for State Bar CLE Classes on Intellectual Property**
- **Published on Intellectual & Business Property Law**
- **Published State and Federal Cases**

Experience

Owner with Intellectual Property Law Firm

2001-Current McCormack Intellectual Property Law Firm and Predecessor Firms Seattle, WA

Practice covers varied intellectual property issues, including copyrights, trademarks, trade secrets, patents, unfair competition, licensing, litigation and related business concerns, such as: business formation, employer/employee issues, contracts and corporate governance. **Accomplishments:**

- Outside counsel for Getty Images, the world's largest stock photography company in the world, relating to Unauthorized Use and copyright infringement. Worked on developing and implementing outside counsel North American copyright infringement enforcement program. Developed internal system for processing cases (COPS: Copyright Offender Policing System).
- Lead outside counsel in 200 + hour intellectual property audit for Microsoft. Worked closely with an Anti-Piracy Manager to hone litigation strategies. Other work as needed. Also worked on various other projects for client over many years.
- Lead outside intellectual property counsel for Washington Shoe; assist client in developing IP strategy and enforcing IP rights.
- Lead counsel on between two and three hundred intellectual property cases, including copyright cases, patent cases, trademark cases and related matters (list of some cases is included below)
- Lead counsel in two-plus year software litigation centered on patented compression algorithms for space-based satellite image programs used by NASA, the CIA and other government agencies. This case involved the challenged use of proprietary / patented software algorithms in a commercial software product developed originally at Los Alamos National Laboratories. This case traversed patent law, copyright law, anti-trust law and involved novel issues of trade secret law. Supervised six attorneys and four paralegals that worked on this case over a two-plus year period.
- Counsel for local business, hired to procure licensing agreements with the National Football League, a Major League Baseball team, and Twentieth Century Fox Film Corporation. Successful negotiations resulted in licensed product. Lead counsel in trade secret litigation as attorney for Northwest Calibration Systems and Davis Inotek. Case involved theft of electronic database.
- Lead counsel for retail import company Mais oui! Represented client in unfair competition and trade secret and defamation case. Achieved favorable resolution that included published opinion in Washington State Appeals Court.
- Filed upwards of one hundred United States trademark applications and related foreign trademark applications. Specific experience with the Trademark Trial and Appeal Board, representing clients in trademark opposition and cancellation proceedings.

Lead Attorney for Technology and Intellectual Property Group

2000-2001

Pacific Northwest Law Group, Judd & Sailer PLLC

Seattle, WA

Practice involved all aspects of intellectual property practice as well as e-commerce and risk management for business. Client counseling and development for intellectual property and technology related business issues including work projects for Microsoft and other technology companies. Prepared checklists for negotiating hardware and software licenses for in-house Microsoft counsel. Helped to bring Microsoft work to firm and did various projects, including issues related to state escheat laws and Microsoft license agreements. Legal work includes all aspects of intellectual property practice as well as e-commerce and risk management for business.

Attorney / Law Clerk

1998-2000

Seed and Berry LLP / Seed Intellectual Property Law Group PLLC Seattle, WA

Litigated intellectual property disputes ranging from patent, copyright, trade secret, trademark, licensing, antitrust and unfair competition matters. Work included numerous intellectual property projects for Microsoft including: trademark work (use of United States Post Office "Eagle" Symbol and case work on various Trademark Trial and Appeal Board cases involving Microsoft trademarks), copyright projects (public domain of copyrighted works to be used in Microsoft's Encarta) and patent audit projects. Directly involved in an internal patent audit, prompted by Microsoft, involving hundreds of Microsoft software patents. Prepared comprehensive (200 + hours) written materials for software engineers and product developers at Visio (now owned by Microsoft). Also completed significant amount of legal work relating to computer software for other technology clients. Helped to prepare written materials for an international level book / CLE on software patent litigation. Served on Board of Directors and advised local Internet Service Provider in conjunction with Preston Gate & Ellis.

Additional Experience

1996-2006

- Volunteer coordinator for judicial campaign of Washington State Supreme Court Gerry L. Alexander, Chief Justice in 2006 (re-elected); projects included planning and coordinating receptions for judge and working with campaign.
- Clerked for Plaintiff's litigation team in *Bernstein v. U.S. Dep't of State*, a groundbreaking encryption technology export case holding computer source code as protected speech under the First Amendment. Worked on the central issues of the case addressing the intersection of First Amendment law and copyright law. Helped secure positive outcome in summary judgment, later upheld by the Ninth Circuit Court of Appeals.
- Assisted legal teams from *Preston Gates & Ellis* and the American Civil Liberties Union on a *pro bono* case involving free speech of the judiciary. Worked on behalf of Justice Richard Sanders of the Washington State Supreme Court.
- City of Seattle Prosecutor WSBA TAP intern. Successfully conducted four jury trials including jury selection, opening statements, direct testimony, cross examination, objections and responses, evidentiary foundations, jury instructions, and closing statements.

Education**Doctor of Jurisprudence**

1997

University of Oregon School of Law

Eugene, OR

- Intellectual Property Certificate (G.P.A. 3.53)
- President of Intellectual Property Student Organization
- Intellectual Property Moot Court Team (Trademarks)
- Oxford University - Law Program, Oxford, England

Bachelor of Arts Speech Communication

1994

University of Washington, *cum laude*

Seattle, WA

- Gold Key Honor Society & National Dean's List Honor Society

Professional

Licensed to Practice in Washington, Oregon, and Idaho. Registered to practice before the United States Supreme Court, Federal Circuit Court of Appeals, Ninth Circuit Court of Appeals, and Federal Court for Western District of Washington. Member of the Washington State Patent Law Association and various state bar associations centered on intellectual property and business issues.

Selected Cases

Appeal Court Opinion: *Mais oui v. Maison de France*, 126 Wash.App. 34, 108 P.3d 787 (Wash. App. 2005) (published opinion in trade secret, unfair competition and defamation case -- won on appeal).

Appeal Court Opinion: *Satava v. Lowry*, 323 F.3d 805, 66 U.S.P.Q.2d 1206 (9th Cir. 2003) (copyright case involving three-dimensional sculptural art made of blown glass).

Davis Inotek v. Rake. Represented plaintiff with nation level business interests in trade secret litigation against former employees. Litigated case to favorable settlement.

Enerlume v. Simcosky. Represented publicly traded company in dispute against renegade blogger; court awarded temporary restraining order and permanent injunction in favor of my client.

Quiznos Corporation v. Sauls. Represented defendant in a domain name dispute involving the domain name www.QuiznoSucks.com in federal bankruptcy court. Issue involved the intersection of First Amendment and trademark law. Litigated case to favorable settlement.

Envision Telephony Inc. v. WFM Solutions. Represented defendants in software case involving copyright issues and trade secret issues, including the “look and feel” of computer interfaces. Primary defense involved the doctrine of “functionality” and “interoperability,” and many of the issues paralleled those of the older *Apple v. Microsoft* case. Litigated case to favorable settlement.

SlipTrack v. Steeler Industries. Represented defendant and prevailed on summary judgment in patent infringement case. In a sister case involving the same plaintiff, product, and patent claim, plaintiff was awarded a seven million dollar judgment after several years of litigation. The summary judgment in our case was used, in part, to overturn the seven million dollar judgment when it was appealed to the United States Federal Circuit.

Corbis Corporation v. American Matrix Corporation. Represented defendant in copyright infringement case involving the alleged use of “unlicensed” images on a website. One of the primary issues involved defending against the plaintiff’s claim for statutory damages. Litigated case to favorable settlement.

Corbis Corporation v. EVS. Represented defendant in copyright infringement case involving the alleged use of “unlicensed” images in catalogue. Case settled after I filed a summary judgment motion.

CRA v. Romio’s Pizza & Pasta. Represented owner/franchisor, Romio’s Franchise Group, in Landlord/Tenant contract dispute. Client was awarded a substantial judgment and attorneys’ fees in excess of \$50,000.00.

Mais oui v. Maison de France. Represented defendants in a case involving the Washington State Uniform Trade Secrets Act and business defamation issues between two French/European importers and retailers. Conducted two-day trial on client’s counterclaims after plaintiff’s case was dismissed. Garnered published appeal decision and victory for client.

Satava v. Lowry. Represented defendant in a copyright case involving three-dimensional sculptural art made of blown glass. Case succeeded before the Ninth Circuit Court of Appeals, resulting in very important copyright decision frequently cited on behalf of artists and sculptors. Published opinion expands the doctrine that “ideas” cannot be copyrighted when those ideas appear in nature and are replicated as such.

Storus Corporation v. Restoration Hardware. Intellectual Property consultant / deposed expert in patent infringement case involving money clips.

Foster Manufacturing v. Hepperle. Represented world-class manufacturer of shipping container technology as plaintiffs in a case involving the Oregon Uniform Trade Secrets Act and several non-competition contracts. Successful litigation resulted in judgments against all defendants.

Road Armor v. Trim. Represented plaintiffs in a case involving trademark ownership, employment law, and intellectual property issues. Trademark in dispute was the well-known “ROAD ARMOR” mark that appeared in the recent movie, “The Fast and The Furious” by Universal Pictures. Litigated case to favorable settlement.

Godinger Silver v. Gadget Universe. Represented defendant in copyright infringement action involving drink dispenser; case involved determining what aspects of copyright were in public domain. Litigated case to favorable settlement.

Almost Golf, Inc. v. Cayman Golf, Inc. Represented plaintiff in declaratory patent infringement case involving synthetic golf balls. The technology of this case involved special materials used to create a life-like golf ball driving experience where the golf ball only goes a fraction of the distance when one practices his or her golf swing. The case settled on favorable terms.

Publications / Presentations

Trade Secret Update – Trade Secrets and Internet, NALS Greater Seattle, April 2010

Obama Hope Poster – Fairey v. Associated Press, NALS Greater Seattle, February 2010

Copyright Infringement – I Didn’t Know!, Seattle Business Magazine (Jan. 2010)

Outlook and your Practice: The Path to More Efficiency and Productivity, CLE Speaker for Washington State Bar Association Law Firm Conference (2009)

Introduction to Intellectual Property, Speaker at University of Washington Jackson School of Business (2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009)

Introduction to Intellectual Property, CLE Speaker for National Business Institute (2008)

Trademarks for Everyone, Idaho State Bar Journal (August 2008)

Trade Secrets For Attorneys, King County Bar Association CLE Speaker (2003, 2004, 2005, 2006)

Legal Research For Attorneys – Find on the Net: Advanced Internet Strategies For the Washington Legal Professional, CLE Speaker, National Business Institute (2005)

Intellectual Property Issues For Non-Profits, a Multi-State Accredited Continuing Legal Education Seminar Sponsored by Washington Law Institute (2001 & 2005)

Intellectual Property Issues, Invited Speaker Seattle University Entrepreneurship Center (2004)

The Truth About Trademarks, Washington State Bar News (February 2002)

Ruling Throws Web Site Terms and Conditions in Doubt!, Puget Sound Business Journal (October 18, 2001)

The Dao of Intellectual Property Protection: Chinese Trademarks and Other Intellectual Properties, E-Pulse Magazine, Vol. II, Issue 9.0 (July 2001)

Advising Clients: Web Site Development Issues, De Novo, (May/June 2001)

Firms Should Protect, Defend and Globalize, Puget Sound Business Journal (March 2, 2001)

Legal Aspects of Starting Your Own Business, a presentation for SBA / SCORE (Small Business Administration / Service Corps of Retired Executives)

Personal

Studied in Japan and United Kingdom. Traveled to over 26 countries around the world. Eagle Scout and accomplished high school athlete. National qualifying bodybuilding champion (1992). Directed and produced award winning documentary film, *Rise N Shine: A Hero’s Journey* (2009) (www.RiseNShineMovie.com). Enjoys home improvement, movies, computers and technology.

