

Richard J. McKenna

Partner

rmckenna@foley.com

Milwaukee

414.297.5723



Richard J. McKenna is an intellectual property lawyer with over 25 years of experience assisting clients in a broad range of intellectual property matters. Rick has extensive experience counseling clients in the selection, adoption, use and enforcement of trademarks. His experience is focused on trademark selection and registration, enforcement, advertising review and protection of trade dress and licensing of these assets. Rick has also represented several clients in domain name disputes.

As a licensed patent attorney, he regularly counsels clients in the prosecution of U.S. and foreign patents, product clearance studies, potential patent infringement analysis and developing effective worldwide intellectual protection strategies. Based upon his technical background, Rick has addressed patent issues in material science and mechanical arts and in the areas of medical devices, food products and processing, automotive products, office furniture, power tools, consumer products and other industrial products.

With his qualifications and experience in both the trademark and patent fields, Rick is uniquely qualified to counsel clients on the interrelation between utility patent, design patent, trademark and trade dress law and to develop effective strategies for the protection of non-functional, aesthetic design elements. The recent *Apple v. Samsung* smartphone litigation has demonstrated the importance of an effective, coordinated, overlapping design patent and trademark/trade dress protection strategy.

Representative Experience

- Caterpillar, Inc.
- Sunoco, Inc.
- Fiskars Brands, Inc.
- Medtronic, Inc.
- Robert Bosch Tool Corporation
- Archway Cookies
- Saputo, Inc.

- BISSELL Homecare Products, Inc.
- Herman Miller, Inc.

Awards and Recognition

- *The Best Lawyers in America*, Litigation, Intellectual Property (2015-2024)
- *World Trademark Review*, WTR 1000 (2021-2023)
- *The Best Lawyers in America*, Intellectual Property Litigation Lawyer of the Year, Milwaukee (2020)
- Lexology, Client Choice Award (2015)

Affiliations

- Member, International Trademark Association
- Member, American Bar Association and its Patent, Trademark and Copyright Section
- Member, American Intellectual Property Law Association

Presentations and Publications

For over seven years, Rick has served on committees of the International Trademark Association developing best practices, policies and procedures for owners of both non-functional, aesthetic designs, and proprietary brands. Recently, he spoke at the INTA Design Rights conference in Copenhagen, Denmark on effective strategies for protecting Design Rights using U.S. Design Patents and Trademark Registrations.

Rick has written and lectured on a variety of issues, including trademark selection strategies, the overlap of protections provided by Design Patents and Trademark Registrations, invention idea generation strategies, and false and misleading advertising. Representative publications and presentations include:

- Speaker, "Design Patent and Trade Dress Product Clearance and Protection Strategies," 2018 International Trademark Association (INTA) Annual Meeting (May 2018)
- Speaker, "The Protection in the US of Product Configurations using Trademark and Design Patent Laws," Trademark Day, Stockholm, Sweden (January 2016)
- Co-author, "Hague Agreement Rules Published by USPTO Creating Strategic Considerations for Applications," *Foley & Lardner LLP Legal News Alert – Intellectual Property* (April 2015)
- Co-author, "United States Completes Deposit for Hague Agreement for Industrial Designs," *Foley & Lardner LLP Legal News Alert – Intellectual Property* (February 2015)
- Author, "Another Big Year for US Design Rights," *Law360* (December 2013)
- Author, "Apple, Inc.—A Case Study in Successful Exploitation of Design and Innovation," *INTA Design Protection Conference White Paper*, which analyzes the strategies successfully employed by Apple to develop, commercialize and protect its non-functional design innovations; and provides practical advice for other consumer products companies to secure protections through an integrated program of design innovations via both Design Patent and Trademark systems (2012)
- Co-author, "Potential Brand Issues Resulting from Facebook Profile Names," *Cyberspace Lawyer* (July 2009)

Firm Leadership

Rick has over 10 years of leadership experience within Foley & Lardner LLP as chair of the Milwaukee office Intellectual Property practice and as the former leader of the firm's nationwide Trademark, Copyright & Advertising practice.

Sectors

- Automotive
- Consumer Products
- Equipment & Industrial Product Manufacturing
- Food & Beverage
- Manufacturing
- Smart Manufacturing

Practice Areas

- IP Due Diligence
- Intellectual Property
- Mechanical & Electromechanical Technologies
- Trade Secret Noncompete Litigation
- Trademark, Copyright & Advertising Counseling

Education

- Case Western Reserve University School of Law (J.D., cum laude, 1988)
 - Editor, *Case Western Reserve University Journal of International Law*
- University of Michigan (B.S., 1985)
 - Materials and Metallurgical Engineering

Admissions

- Michigan
- Wisconsin
- U.S. Patent and Trademark Office