

## Jerre B. Swann

### Retired

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### Services

Antitrust & Trade Regulation  
Antitrust Litigation  
Government & Regulatory  
Intellectual Property  
Trademark Litigation  
Trademark, Copyright &  
Advertising



Jerre Swann joined the firm in 1967 and became a partner in 1972. He has served as counsel for numerous national corporations in trademark, copyright, false advertising and trade dress actions in judicial districts throughout the United States and has acted as a consultant with respect to survey and expert witness issues in cases involving cutting-edge issues.

Mr. Swann was named the 2009 INTA President's Awards winner in recognition of his lifetime commitment and contributions to the field of intellectual property law. He has received the Ladas Memorial Award and the INTA Volunteer Service Award for the Advancement of Trademark Law. He was recognized in *WHO'S WHO LEGAL - The International Who's Who of Business Lawyers* for Trademarks. He was also recognized in *The Legal 500 US* for Litigation. Mr. Swann was recognized in *The Best Lawyers in America*<sup>®</sup> for Intellectual Property Law and Advertising Law in 2017 and each of the 16 years preceding. He was also named a 2015 "Atlanta Lawyer of the Year" for Trademark Law by *The Best Lawyers in America*<sup>®</sup>. Mr. Swann was listed by Legal Media in its *Guide to the World's Leading Trademark Law Practitioners* in 2008, 2011, 2012, and 2014 and he was named to its *Best of the Best USA* in 2011 as one of the top 25 practitioners for Trademark Law in the country. Mr. Swann was recognized as a 2009, 2010, 2013, 2014, 2015 and 2016 Georgia "Super Lawyer" in Intellectual Property Litigation by *Super Lawyers* magazine. He is also listed in the 2018 and the nine years immediately preceding editions of *Chambers USA: America's Leading Lawyers for Business* for Intellectual Property Law and in 2012, 2013, 2014 and 2015, he is listed as #1 in the area of Intellectual Property Law. Mr. Swann is listed in the 2019 and the seven immediately preceding editions of *World Trademark Review 1000 - The World's Leading*



*Trademark Professionals* and is AV<sup>®</sup> rated by Martindale-Hubbell.\*

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## **Experience**

Successfully represented Georgia-Pacific in the expedited arbitration of a case involving false advertising claims in its competitor's nationwide television, radio, and print campaign for paper towels. Obtained injunction and award of attorneys' fees. *Georgia-Pacific Corp. v. The Procter & Gamble Co.*, No. 03-2957 (N.D. Ga. filed Aug. 30, 2003).

Represent the University of Alabama in a case pending in the Northern District of Alabama in a suit involving the defendant's use of the University's colors and uniforms art in prints depicting famous moments in Alabama football history. The defendant claims use of crimson and white is protected by the First Amendment. The University has argued that its colors and uniforms are the protected trade dress of the University that must be licensed. *University of Alabama Board of Trustees v. New Life Art Inc.*, Civ. No. 00585 (N.D. Ala. filed 2005).

Represent a non-profit housing organization's domestic and international trademark portfolio, including domestic and international oppositions and cancellations for the non-profit organization. We have also provided counsel regarding potential trademark litigation. Specifically, we secured a favorable settlement in a case that centered on a declaratory judgment action seeking to invalidate the non-profit's mark.

Represented four major universities and The Collegiate Licensing Company (CLC) in a trade dress infringement case. In an attempt to avoid the provisions of a prior settlement agreement, the defendant, a clothing provider, sold t-shirts and other merchandise bearing university colors that did not include any of the colleges' registered marks. The firm secured a ruling rejecting the theory that school colors were aesthetically functional and that the defendant's use was "fair." After prevailing on summary judgment on the issue of liability for trademark infringement and unfair competition, we conducted a two-day jury trial on monetary relief. The plaintiffs recovered damages in the form of a reasonable royalty and an accounting of defendants' profits. The defendants later appealed, and the Fifth Circuit unanimously affirmed. *Louisiana State University v. Smack Apparel Co.*, 438 F. Supp. 2d 653 (E.D. La. 2006), *aff'd*, 550 F.3d 465 (5th Cir. 2008).

Represented American Eagle Outfitters in asserting its trademarks and advertising motif relative to advertising and sale of AMERICAN EAGLE footwear by Payless. The firm obtained a preliminary injunction prohibiting objectionable practices and requiring a prominent disclaimer of any affiliation with American Eagle Outfitters. Ultimately, the case was favorably settled. *American Eagle Outfitters v. Payless Shoe Source, Inc.*, No. 071675



(E.D.N.Y. Nov. 10, 2008).

Represented adidas America Inc. and adidas-Salomon AG in trademark infringement litigation against Payless Shoesource involving the defendant's infringing use of the well-known and distinctive adidas Three-Stripe Mark. Following a 14-day trial and two days of deliberation, the jury found unanimously in adidas' favor on all seven claims, including trademark infringement, trade-dress infringement, unfair competition and unlawful and deceptive trade practices. The jury awarded \$305 million in monetary relief, including \$137 million in punitive damages. This verdict was the largest in history for a trademark infringement case. Following entry of final judgment in excess of \$60 million, the parties later settled for an undisclosed amount. *adidas America Inc. v. Payless Shoesource Inc.*, No. CV01-1655 (D. Or. Nov. 11, 2008).

### **Education**

Harvard University, J.D. (1965)

Williams College, B.A. (1961)

### **Admissions**

Georgia (1968)

New York (1966)

### **Clerkships**

U.S. District Court for the Southern District of New York - Dudley B. Bonsal

### **Professional & Community Activities**

International Trademark Association (INTA), Special Committee on FTDA, Former Director

*The Trademark Reporter*, Former Editor-in-Chief

### **Insights**

#### [Publications](#)

Likelihood of Confusion Surveys: The Ever-Constant Eveready Format; The Ever-Evolving Squirt Format

June 28, 2019

#### [News Releases](#)

Kilpatrick Townsend's Trademark Practice Receives Gold Level Recognition

February 5, 2019



### [News Releases](#)

Kilpatrick Townsend Achieves Recognition From Chambers USA 2018

May 11, 2018

### [News Releases](#)

Kilpatrick Townsends Trademark Practice Receives Gold Level Recognition in the 2018 World Trademark Review 1000

January 25, 2018

### [News Releases](#)

Kilpatrick Townsend Achieves Recognition From Chambers USA 2017

May 30, 2017

### [News Releases](#)

Kilpatrick Townsends Trademark Practice Receives Gold Level Recognition in the 2017 World Trademark Review 1000

February 9, 2017

### [News Releases](#)

Kilpatrick Townsend Earns Record-Breaking Recognition in Annual Best Lawyers in America 2017

August 16, 2016

### [News Releases](#)

Kilpatrick Townsend Once Again Achieves Recognition From Chambers USA 2016

May 31, 2016

### [News Releases](#)

Kilpatrick Townsend Receives Top Recognition in 2016 World Trademark Review 1000

January 21, 2016

### [News Releases](#)

Kilpatrick Townsend Earns Record-Breaking Recognition in Annual Best Lawyers in America 2016

August 19, 2015

### [News Releases](#)

Ten Kilpatrick Townsend Attorneys Named to 2015 International Who's Who of Trademark Lawyers



August 13, 2015

[News Releases](#)

Kilpatrick Townsend Once Again Achieves Recognition From Chambers USA 2015

May 22, 2015

[News Releases](#)

Kilpatrick Townsend Once Again Achieves Recognition for 2015 Georgia Super Lawyers

February 26, 2015

[News Releases](#)

Kilpatrick Townsend Once Again Receives Top Recognition in 2015 World Trademark Review 1000

February 5, 2015