

## Kenneth B. Germain

Counsel

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Ken Germain has more than 45 years of varied experience in the trademark/unfair competition field and is a former full-time law professor. He focuses his practice on expert witness work, and consulting and litigation. Ken often has been retained as an Expert Witness on issues relating to trademarks and unfair competition, working on cases involving some of the nation's largest companies in high-stakes, cutting-edge cases. He has testified in court over 15 times.

Ken has been an active speaker on trademark and unfair competition, lecturing at national, regional and local conferences over 300 times. In addition, in 1990 Ken founded, and until 2014 chaired, the All Ohio Annual Institute On Intellectual Property seminar. This seminar is in its 33rd year, provides two-city programming (Cincinnati, Cleveland) covering all aspects of IP, and is the largest, oldest, full-day IP CLE program in and around Ohio.

Ken served as an Adjunct Professor at the University of Cincinnati College of Law for many years, teaching trademark/unfair competition courses. Later, Ken served as the Distinguished Professorial Practitioner in the University of Dayton Law School's Program in Law and Technology.

### Areas of Practice

- Trademarks/Unfair Competition
- Trade Dress

### Bar Admissions

- Ohio, 1989
- California, 1970 (inactive)



## Education

- **New York University School of Law**, New York, New York
  - J.D. – 1969
  - Law Review: N.Y.U. Law Review, Associate Editor
- **Rutgers**, New Brunswick, New Jersey
  - A.B. magna cum laude – 1966
  - Honors: Elected to Membership in Phi Beta Kappa

## Published Works

- Over 25 publications.
- Liability Theories Based on Trademark Ownership and Licensing, ch. 3(VI) in Ridesharing Law and Liability (ABA 2020, Z. Pyers and K. Steele, eds.), coauthored by S. Owens.
- The Constitution Commandeth: Thou Shalt Not Protect the Same Subject Matter Under Design Patent and Trade Dress Laws, 21 Chic.-Kent J. Intell. Prop. 90 (2021), coauthored by L. Sitler,
- The Constitution Commandeth: Thou Shalt Not Protect the Same Subject Matter Under Design Patent and Trade Dress Laws, IP Theory: Vol. 12: Iss. 2, Article 1, coauthored by Sitler, Louis H. (republishation).

## Classes/Seminars

- Precedential Supreme Court And Appellate Court Cases On Trademarks and Unfair Competition: 2019-2020 In Review, 30th All Ohio Annual Institute On Intellectual Property [AOAIOIP] sponsored by the Cincinnati Bar Association and the Cleveland Intellectual Property Law Association, virtual presentation October 8, 2020.
- Using Virtual Early Neutral Evaluation To Speed Up And Reduce Costs In Resolving Trademark/Trade Dress Disputes In The COVID-19 Era, Practising Law Institute Webinar entitled "Intellectual Property Law: Trademark and Copyright Review 2020", September 15, 2020.
- Precedential Supreme Court And Appellate Court Cases On Trademarks and Unfair Competition: 2019-2020 In Review, 30th All Ohio Annual Institute On Intellectual Property [AOAIOIP] sponsored by the Cincinnati Bar Association and the Cleveland Intellectual Property Law Association, virtual presentation October 8, 2020.
- Regardless of What The Good Professor Just Told You, The Constitution Does Not Allow Dual Protection Under Design Patent and Trade Dress Regimes for the Same Subject Matter!, Webinar presented to the San Francisco I.P. Law Assn., December 10, 2020.
- Resolved: The Constitution Does Not Permit Dual Protection Under Design Patent And Trade Dress For The Same Subject Matter, Midwest Intellectual Property Summit, sponsored by the Indiana Continuing Legal Education Forum, Indianapolis, Indiana, November 17, 2022.
- How IP (Trademarks) Can Help PI (Personal Injury) Attorneys Prevail Against Uber And Its ilk, Prepared for Cincinnati Bar Assn., IP and Torts/Insurance Groups, June 13, 2023.



## Honors and Awards

- Board of Advisors, Restatement (Third) of Unfair Competition, 1987 - 1995
- Who's Who Legal, The International Who's Who of Trademark Lawyers, 2001 - Present
- Chambers USA, America's Leading Lawyers for Business, 2004 - Present
- The Best Lawyers in America®, 1991 - 2017
- The Best Lawyers in America® "Lawyer of the Year" Litigation – Intellectual Property and Trademark Law, Cincinnati, 2016
- The Best Lawyers in America® "Lawyer of the Year" Litigation – Intellectual Property and Trademark Law, Cincinnati, 2015
- The Best Lawyers in America® "Lawyer of the Year" Litigation – Intellectual Property and Trademark Law, Cincinnati, 2014
- The Best Lawyers in America® "Lawyer of the Year" Trademark Law, Cincinnati, 2012
- The Best Lawyers in America® "Lawyer of the Year" Intellectual Property Law, Cincinnati, 2011
- Ohio Super Lawyers®, 2004 - 2013, 2017

## Fraternalities/Sororities

- Phi Beta Kappa

