



→ Robert E. Hough II

Associate

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Robert is a leading advertising and brand protection specialist, safeguarding, enforcing and commercializing some of the world's most famous brands. He is a founding member of the Firm's Sports Industry Team and the Associate Co-Leader of the Firm's Advertising Team.

Robert provides strategic counseling on issues related to trademark registration and clearance, content clearance, prize promotions, advertising claim substantiation, and cause marketing regulatory compliance under the Lanham Act, Section 5 of the FTC Act, and various other federal and state consumer protection statutes. He and his team have structured hundreds of brand promotions—such as contests, sweepstakes, giveaways, charitable sales promotions and giving campaigns—across the country and in dozens of major markets around the world, helping clients avoid costly challenges from consumers, competitors and state and federal regulators. Robert is especially experienced in matters unique to the sports and entertainment industry. He counsels clients on intellectual property rights in connection with arenas and event centers, professional, semiprofessional and amateur sports teams, athletes and artists.

Robert brings years of experience from his first career in the advertising industry to his premier advertising law practice, and is recognized as an expert in negotiating brand and publicity licenses, sponsorships, naming rights and other promotional agreements. Robert brings a practical approach to risk management, with a first-hand understanding of the time pressures of the advertising industry and the issues brands and agencies face with consumer messaging across all channels, including social media, web and new technology platforms. Robert maintains current market intelligence in these areas to ensure his clients remain the industry leaders.

Robert and his team also protect and enforce clients' brands by strategically navigating intellectual property infringement and licensing disputes in federal courts nationwide, as well as through administrative proceedings before the Trademark Trial and Appeal Board (TTAB), the National Advertising Division of the Better Business Bureau (NAD) and the World Intellectual Property Organization (WIPO), and through enforcement actions under the Digital Millennium Copyright Act (DMCA) and the Uniform Domain Name Dispute Resolution Policy (UDRP). Robert has achieved significant wins in trademark infringement cases in federal jury trials and hundreds of brand enforcement actions against infringers in various other forums. Clients praise Robert's practical approach to intellectual property litigation and the development of wholistic, effective and economical strategies for global brand protection and enforcement.

Global brands and agencies trust Robert as their first call when dealing with issues involving advertising, negotiation of licenses or promotional agreements, or when they must take fast, strategic action to protect or enforce their valuable intellectual property.

Experience

Representative Matters

- Defend national in-home fitness brand against \$37 million infringement claims in Southern District of New York (prevailed on summary judgment)
- Defend leading national accessories retailer against copyright infringement claims in the Central District of California
- Enforce startup real estate brand's federal trademark rights against infringer in the Northern District of Texas
- Try trademark infringement case to jury on behalf of leading online education provider (plaintiff) in the Northern District of Texas
- Defend ice hockey team in trademark opposition proceeding before the U.S. Trademark Trial and Appeal Board
- Negotiate major airline brand placement in national television reality series
- Negotiate talent engagement and content production agreements for the development and promotion of original music and companion music video for leading online dating services provider
- Negotiate co-branding and promotional license agreements on behalf of major airline in connection with feature film release
- Develop internal and external social media influencer policies for national financial services company
- Draft and provide counsel regarding artwork donation and copyright license agreements on behalf of former U.S. President
- Negotiate intellectual property rights for production of original music video and special edition card game for technology company's advertising campaign in India
- Negotiate multi-year integrated marketing campaign with e-sports team operating in the NBA 2K League.
- Negotiate multi-year National Basketball Association jersey patch sponsorship for digital marketplace service provider
- Provide counsel on the development and operation of new Kansas sports and special events arena
- Negotiate multi-year brand ambassador agreement with professional athlete in the National Basketball Association
- Negotiate licenses and operating agreement in connection with national soccer hall of fame museum and event center
- Provide counsel in connection with the re-branding of a National Collegiate Athletic Association Division I Football Bowl Subdivision sporting event
- Draft and provide counsel on licenses and operating agreement in connection with professional football hall of fame
- Provide counsel to new owners of ice hockey team in North American Hockey League on re-branding efforts and negotiation of stadium rights
- Provide counsel and draft licenses in connection with Major League Baseball stadium naming rights sponsorship

Articles

- Right of Publicity
The Licensing Journal (Wolters Kluwer), Volume 39, Number 9, 10.2019
- New York's Right of Publicity Statute at Center Court in Esports Dispute
Sports Litigation Alert, 08.16.2019
- Headline Issues for Brands to Consider When Negotiating Athlete Publicity Licenses
LawInSport, 04.17.2019
- "Faces and Names: Modern Issues in Publicity Licensing," *Journal of NCAA Compliance*, March/April 2019

Corporate & Securities Law Blog Posts

- "Negative Option Practices Under Increased Scrutiny in the US," March 27, 2023

Covering Your Ads Blog Posts

- "FTC Increases Scrutiny of Negative Option Marketing," March 23, 2023
- "California's Fair Pay to Play Act: This is Only The First Quarter," October 4, 2019
- "NAD Recommends Improvements to Baby Monitor Performance Disclosures," August 6, 2019
- "CARU Takes Action Against Two More Mobile Apps," (Part II), June 25, 2019
- "Faces and Names: Modern Issues in Athlete Publicity Licensing," April 9, 2019

Eye on Privacy Blog Posts

- "Utility Provider Settles Call Recording Lawsuit for \$3.7 Million," August 6, 2019
- "CARU Takes Action Against Two Mobile Apps," (Part I) June 19, 2019

Intellectual Property Law Blog Posts

- "Easier Copyright Registration Coming for Blogs and Social Media Posts," August 10, 2020
- "Celebrity Entertainer Sues Over Video Game Avatar," August 22, 2019

Speaking Engagements

Panelist, "Hot Topics in Esports Advertising from Both Sides: Brands and Esports Organizations," 2022 ANA Masters of Marketing Law Conference, November 8, 2022

"Basics of Promotions, Sweepstakes, Skill Contests and Gaming," 2020 ANA/BAA Marketing Law Conference, November 10, 2020

Moderator, "Protecting & Enforcing Your Brand in the Intellectual Property, Domain Name, and Mobile App Arenas," 2017 ANA/BAA Marketing Law Conference, November 14, 2017

"Top Advertising and Marketing Issues Facing Retailers Today," Consumer Products, Retail, and Franchise Industry Group, June 21, 2017

Events

2021 ANA/BAA Marketing Law Conference
Basics Of Promotion, Sweepstakes, Contests And Gaming
San Diego, CA and Virtual, 11.15.2021

Memberships

Member, American Bar Association
Member, Dallas Bar Association
Member, International Trademark Association (INTA)
Board of Directors, Bluegrass Heritage Foundation
Member, Brand Activation Association
Member, United States Practical Shooting Association

Practices

Intellectual Property
Copyrights
False Advertising, Lanham Act and Unfair Competition
IP Licensing, Technology and Commercial Transactions
Trademark Applications and Prosecution
Trademarks and Trade Dress
Advertising

Industries

Entertainment, Technology and Advertising
Esports & Games
Retail, Fashion & Beauty
Sports

Education

J.D., Southern Methodist University Dedman School of Law, 2016, *magna cum laude*, *Order of the Coif*
B.S./B.A., University of Arkansas, 2008, *cum laude*, Honors Program

Clerkships

Judicial Extern, Hon. Elizabeth Lang-Miers, Court of Appeals for the Fifth District of Texas

Admissions

Texas

Arkansas

U.S. District Court for the Northern District of Texas

U.S. District Court for the Southern District of Texas

U.S. District Court for the Eastern District of Texas

U.S. District Court for the Western District of Texas