Mike Oropallo

Partner

Syracuse
P: 315.425.2831
moropallo@barclaydamon.com

Education

- Ohio Northern University, *Cum Laude*; *Law Review*, Associate Editor, JD
- State University of New York at Oswego, BA

Practices & Industries

- Energy
- Environmental
- Intellectual Property Litigation
- Outdoor & Wildlife
- Trademarks, Copyrights & Licensing

Admitted to Practice

- New York
- Pennsylvania

Court Admissions

- US Court of Appeals for the Second Circuit
- US Court of Appeals for the Third Circuit
- US Court of Appeals for the Fourth Circuit
- US Court of Appeals for the Fifth Circuit
- US Court of Appeals for the Ninth Circuit
- US Court of Appeals for the Federal Circuit
- US District Court for the Eastern District of New York

Biography

Mike is a first-chair trial lawyer with 30 years of wide-ranging complex civil trial experience, concentrating on intellectual property, environmental, toxic exposure, and wildlife cases. In addition to dozens of jury trials, he has counseled his many archery and outdoor industry clients on complex copyright, patent, and trademark issues, including protection, enforcement, and related to the acquisition, monetization, and licensing of these valuable client assets.

Mike has litigated cases throughout the United States, handled appeals, including precedent setting decisions on issues related to copyrightability, “useful articles,” and the merger doctrine.

He is also a recognized wildlife law attorney, representing clients on ultra-niche issues such as the transfer, importation, and permitting of wildlife. Mike regularly represents museums with the acquisition of natural history specimens and counsels clients on the labyrinth of wildlife laws and prohibitions, including pursuant to the Endangered Species Act, the Migratory Bird Treaty Act, the Marine Mammal Protection Act, the Convention on International Trade in Endangered Species (CITES), and the Lacey Act.

Mike has held a wide variety of professional leadership positions, including his current positions as chair of the New York State Bar Association Intellectual Property Section, the chair of Barclay Damon's Trademarks, Copyrights & Licensing Practice Area, and co-leader of the firm's Outdoor & Wildlife Team.

His extensive trial experience has given him a unique perspective on the cost, uncertainty, and unpredictability of trials and outcomes, which has prepared him as a neutral in his growing arbitration, mediation, and alternative dispute resolution practice.

Mike is a member of the New York State Bar Association Dispute Resolution Section Executive Committee, has been named to numerous court-approved ADR panels, and has been named as a neutral to multiple panels, including the American Arbitration

- US District Court for the Northern District of New York
- US District Court for the Southern District of New York
- US District Court for the Western District of New York
- US District Court for the Western District of Pennsylvania
- US District Court for the Western District of Wisconsin
- US Supreme Court

Association and the International Trademark Association (Panel of Neutrals).

Bar Associations

- American Bar Association
- New York State Bar Association, Intellectual Property Section Chair and Dispute Resolution Section Executive Committee Member

Selected Memberships & Affiliations

- American Alliance of Museums
- American Arbitration Association – Panel of Neutrals
- Copyright Society of the USA
- Innovation American Inn of Court
- International Trademark Association – Panel of Neutrals

Representative Experience

- Serves as lead first-chair trial counsel on patent, copyright, and trademark infringement cases, including for jury trials, Markman hearings, and on preliminary injunction, summary judgment, and additional hearings and motions.
- Obtained a precedent-setting trial verdict upheld on appeal regarding the copyrightability of “useful articles” and realistic depictions of animals in three-dimensional sculptural works.
- Serves as lead coordinating and IP due-diligence counsel for numerous acquisitions and mergers and on multi-million deals for individual companies and private equity.
- Served as the lead member of a team in litigation regarding the Endangered Species Act listing of the polar bear and related appeals.
- Successfully obtained copyright protection for sculptural work and restoration of the last Galapagos Tortoise that was on display at the American Museum of Natural History and now in Ecuador.
- Successfully obtained a temporary restraining order and preliminary injunction against a former archery-equipment designer related to proprietary cam and related technologies.
- Successfully defended a glove manufacturer at trial on the claim that the mark caused the likelihood of confusion with the registered mark for ski gloves and related merchandise. The proximity of the house mark eliminated the likelihood of confusion.
- Successfully moved for a finding of civil contempt for the violation of an injunction in a copyright infringement case involving wearable art in the form of pewter wildlife-art pins.

- Obtained a finding of infringement at trial involving design and utility patents for snow plows and material-moving devices.
- Obtained numerous permits for the importation, possession, and transfer of various wildlife specimens for natural history museums.
- Represented a client in asserting its trademark rights against a tour management company relating to the title of its nationwide hip-hop concert tour, which featured several top Billboard artists, resulting in the company's rebranding of the tour, settlement payment, abandonment of its pending trademark applications, and agreement to cease use of our client's trademark.

Prior Experience

- Hiscock & Barclay, LLP, Partner
- Hancock & Estabrook, LLP, Partner
- Schlumberger, Geologic Engineer

Selected Community Activities

- Taxidermy Hall of Fame, Board of Directors Member
- Roosevelt Wild Life Station, Collections Committee Member
- Trial Lawyers Care, Pro Bono Counsel to 9/11 Victims
- The Pope & Young Club, Board Member and Membership Chairman
- Cayuga County Chamber of Commerce, Former Chair and Board of Directors Member

Selected Honors

- *The Best Lawyers in America®:* Copyright Law, 2020–2024
- Selected to *Super Lawyers* Upstate New York: Intellectual Property Litigation, 2007, 2011–2023
- New York State Bar Association, Empire State Counsel Honoree, 2009–2010
- ALM Top Rated in the Energy, Environmental, and Natural Resources for Environmental Law and Litigation – Environmental
- Martindale-Hubbell AV Preeminent Peer Review Rated for Very High to Preeminent Ethical Standards and Legal Ability

Selected Speaking Engagements

- CompuMark Lunch & Learn, “Trademarks and Industrial Designs: Where Research Impacts Go-to-Market Strategy”
- Archery Trade Association, “Licensing 101: What to Look for in an Agreement to License Patents or Other Intellectual Property Rights”
- National Taxidermists Association Annual Meeting and Convention, “Legal Developments and New Legislation Involving Wildlife Laws and Issues”
- New York State Bar Association Annual Meeting, Intellectual Property Law Section, “Recent Patent Developments Around the World”
- Defense Research Institute, “Trade Secrets and Agreements Not to Compete: New York Non-Competes”

Selected Media

- New York State Bar Association *Bright Ideas*, "Sorry HAL, You Cannot Be an Author! How Much Direction and Control Over Artificial Intelligence Is Needed to Be an Original Work of Authorship?"
- *Super Lawyers*, "Bird Man: Michael Oropallo on the Only Outdoor and Wildlife Team in the Country"
- New York State Bar Association *Bright Ideas*, "What Will Become of Alice?"
- American Bar Association *Energy Litigation*, "What Energy Lawyers Need to Know About the Endangered Species Act"
- New York State Bar Association *Bright Ideas*, "Federal Circuit Addresses the Role of District Courts in Assessing Patent Damages, Expert Witness Testimony, and Reasonable Royalty Evidence"

Selected Alerts & Blog Posts

- Website Accessibility Lawsuits: Juan Santana Targeting Outdoor and Wildlife Industry in Recent Flurry of Federal Lawsuits
- USFWS Proposes Revision to African Elephant 4(d) Rule
- Instagram Users, Beware: Social Media Copyright Peril
- Don't Lose Your Trade Secrets Amid COVID-19: Some Practical Advice
- Federal Court Says United States Must Evaluate Endangered Status for Northern Long-Eared Bat