

# Snell & Wilmer

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## Andrew F. Halaby

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### Main Bio

A seasoned trial lawyer and trusted business advisor, Andy Halaby helps his local, national and international clients optimize solutions to their hardest problems - creatively, practically and incisively.

**Intellectual Property and Technology Litigation.** Over nearly 25 years of practice focused primarily in Phoenix and Southern California, Andy has served as lead counsel in dozens of intellectual property and technology matters, including patent infringement, trade secret misappropriation, trademark infringement, trade dress infringement, unfair competition, cyberpiracy, copyright infringement, and deceptive advertising cases, as well as disputes involving, among other things, computer fraud and abuse, data security, data integration, search engine optimization, software development, software licensing, software conversion, and life sciences. He has represented both plaintiffs and defendants, in matters ranging from six to nine figures of liability exposure, involving many different products and services. A former professional engineer, Andy also is registered with the United States Patent and Trademark Office.

**Business Disputes Generally.** Andy also advises public and private clients in connection with a wide variety of business disputes beyond those listed above, involving breach of contract, business tort, antitrust, derivative action, class action, securities, lender liability, ERISA, False Claims Act, corporate governance, commercial real estate, trust and estate, corporate defalcation, defamation, insurance coverage, life insurance and annuity, and other complex disputes. He is experienced in all phases of the civil litigation process, from temporary restraining order and preliminary injunctive relief to post-trial enforcement proceedings.

**Professional Responsibility and Law of Lawyering.** Chair of the firm's Ethics Committee, Andy also advises inside counsel, outside counsel and law firms on professional responsibility and related matters, including discipline defense and lawyer liability matters. As part of his career-long commitment to community service, Andy currently serves as a member of the State Bar of Arizona's Ethics Advisory Group, where he fields ethics hotline calls from lawyers from across the state.

**Thought Leadership.** Believing that the continued pursuit of deep, broad, and current legal knowledge is essential to finding creative, cross-disciplinary solutions to his clients' problems, Andy has researched, published and presented extensively on a variety of complex legal issues and developments, in forums ranging from law reviews, to state and national bar journals and CLE, to LinkedIn. His work has been cited in treatises on intellectual property law, evidence, professional responsibility and the First Amendment, as well as in numerous scholarly articles. Andy also has served for more than 10 years as an adjunct professor and mentor at the Sandra Day O'Connor College of Law at Arizona State University, teaching Trademark &

Unfair Competition Law, Patent Litigation, Professional Responsibility and - most recently - Real World IP Lawmaking.

## Educational Affiliations

- Sandra Day O'Connor College of Law at Arizona State University
  - Adjunct Professor: [Real World IP Lawmaking](#), [Patent Litigation](#), [Professional Responsibility](#), [Trademark and Unfair Competition Law](#)
  - Faculty Leader, Center for Law, Science & Innovation Intellectual Property Cohort
- University of Kansas School of Law (J.D., 1996)
  - Order of the Coif
  - Articles Editor, Kansas Law Review
- University of Kansas (M.S., Environmental Health Engineering, 1992; B.S., Civil Engineering, 1990)

## Professional Memberships & Activities

- State Bar of Arizona
  - Ethics Advisory Group
  - Committee on the Rules of Professional Conduct (2011-2017)
  - Conflict Case Committee (2005-2014)
- American Bar Association
  - Section of Intellectual Property Law
    - Patent Litigation Committee, 101 Subcommittee Co-Chair
    - Editor, *Landslide*<sup>®</sup> magazine (2010-2016)
  - Business Law Section
    - Professional Responsibility Committee
    - Business and Corporate Litigation Committee
  - Center for Professional Responsibility
- Supreme Court of Arizona
  - Task Force on Lawyer Ethics, Professionalism, and the Unauthorized Practice of Law (2016-2017)
  - Independent Bar Counsel Attorney Panel (2014-2016)
- Law360 Legal Ethics Advisory Board (2017)
- Association of Professional Responsibility Lawyers

## Representative Presentations & Publications

- "[Google v. Oracle Heads to the Supreme Court](#)," Author, SWIPLit Blog (November 18, 2019)
- "[Is 'Booking.com' Generic? We'll Booking.See](#)," Author, SWIPLit Blog (November 11, 2019)
- "[Disgorgement of Profits as a California Breach of Contract Remedy: Intellectual Property and Other Guideposts](#)," Co-Author, 19 UC Davis Bus. L.J. 151 (2019)
- "[Section 101 in 2019](#)," Co-Author, presented in connection with "101 '301': Advanced Subject Matter

Eligibility” program at ABA Section of Intellectual Property Law Annual Meeting, Arlington, VA (April 11, 2019)

- "[Supreme Court Copyright Decision Indicates Greater Proactivity by Would-Be Infringement Plaintiffs](#)," Co-Author, Snell & Wilmer Legal Alert (March 4, 2019)
- "[California vs. Federal Practice Document Requests and Depositions](#)," Co-Author (April 20, 2018)
- "[New Model Rule of Professional Conduct 8.4\(g\): Legislative History, Enforceability Questions, and a Call for Scholarship](#)," Co-Author, 41 J. Legal Prof. 201 (2017)
- "[Someone Copied My Company's Website Without Permission - What Can I Do About It?](#)" Co-Author (August 2016)
- "[New Protections for Trade Secrets Require Fresh Look at Employment Agreements](#)," Quoted, Hedge Fund Legal & Compliance Digest (May 24, 2016)
- "[Arizona's Private Lateral Screening Rule: Dramatic Improvement](#)," Arizona Attorney (January 2016)
- "[So I Got This Letter Claiming Infringement. I Didn't Even Know the Picture Was Copyrighted...](#)" Co-Author, also available at [JD Supra](#) (December 14, 2015)
- "[New Frontiers: The Clampdown on Patent Infringement Litigation and Its Effects on Corporate Litigation](#)," [presented at](#) Network of Trial Law Firms Litigation Management Supercourse "Litigation Management: In-House Counsel Facing the Future," Laguna Beach, CA (October 24, 2015)
- "[The \(Mis\)use of Lawyer Discipline in Civil Litigation](#)," Arizona Attorney (November 2014)
- "Litigating in the Central District of California, but Not a Local? Plan for the Procedural Distinctions," available at [JD Supra](#) and [Lexology](#) (August 5, 2013)
- "[Pleading Analysis Under Iqbal: Once More Unto the Breach!](#)" Arizona Attorney (December 2009)
- "[Explaining Broadcom v. Qualcomm: Adverse Inferences in Inducement of Infringement Cases](#)," Presented at ABA Annual Meeting, Chicago, IL (August 2, 2009)
- "[The Trickiest Problem With Functionality' Revisited: A New Datum Prompts A Thought Experiment](#)," 63 N.Y.U. Ann. Surv. Am. L. 151 (2008)
- "[Of 'Purposes Not Prohibited:' New Federal Rule of Evidence 408\(b\)](#)," 40 Creighton L. Rev. 679 (2007)
- "[You Won't Be Back: Making Sense of Express Aiming After Schwarzenegger v. Fred Martin Motor Co.](#)," 37 Ariz. St. L.J. 625 (2005)
- "[No Summary Judgment for You! One State's \(Unjustified\) Treatment of Contract Claims for Lost Profits](#)," 7 U. Miami Bus. L. Rev. 57 (1998)
- "[An Analysis of the Supreme Court's Reliance on Racial 'Stigma' as a Constitutional Concept in Affirmative Action Cases](#)," Co-Author, 2 Mich. J. Race & L. 235 (1997)
- "[Treatment of Goodwill by the Seller Under I.R.C. Section 197](#)," Comment, 43 U. Kan. L. Rev. 903 (1995)

## Professional Recognition & Awards

- Top 100 Lawyers in Arizona, AZ Business Magazine (2017-2018)
- Southwest Super Lawyers®, Intellectual Property Litigation (2013-2019)
  - Top 50 in Arizona (2016-2019)

- The Best Lawyers in America®, Intellectual Property Litigation, Patent Litigation, Copyright Law, Commercial Litigation (2013-2020)
- Arizona's Finest Lawyers

## **Community Involvement**

- Valley Leadership, Class XXV
- Herberger Theater Center, Board of Directors
- Genesis Program, Inc., Advisory Board
- All Saints' Episcopal Church, Junior Warden (2016) and Vestry (2015-2018)
- University of Kansas School of Law Alumni Board of Governors (2009-2016)
- All Saints' Episcopal Day School Tiger Dads Club
  - Co-Chair (2012-2015)
- Phoenix Public Library Foundation
  - Board of Directors (2011-2014)
- International Science and Engineering Fair
  - Board of Directors (2003-2005)
- Maricopa County Bar Association Volunteer Lawyers Program
  - State Bar of Arizona Top Pro Bono Attorney (2005)

## **Other Professional Experience**

- Black & Veatch, Consulting Engineer (1990-1993)

## **Bar Admissions**

- Arizona
- California
- United States Patent and Trademark Office

## **Court Admissions**

- Supreme Court of Arizona
- Supreme Court of California
- United States District Court, District of Arizona
- United States District Court, Central District of California
- United States District Court, Southern District of California
- United States District Court, Northern District of California
- United States Court of Appeals, Ninth Circuit
- United States Court of Appeals, Federal Circuit