



Robert P. Andris
1001 Marshall Street, Suite 500
Redwood City, CA 94063
Direct: (650) 780-1634
Office: (650) 364-8200
Fax: (650) 780-1701
Email: randris@rmkb.com
Web: www.rmkb.com

Robert P. Andris is a partner in the Firm's Redwood City office. Mr. Andris' practice focuses on the litigation and trial of intellectual property disputes arising in the areas of patent, trademark, copyright, trade secrets, product liability and license agreements. He holds the highest rating from Martindale-Hubbell and was named by *Northern California Super Lawyers*® magazine in the area of Intellectual Property.

Mr. Andris is a Registered Patent Attorney with extensive experience in every aspect of the litigation and trial of patent matters. His clients span a wide array of industries, including the manufacturers of particle detectors, blade servers, toy helicopters, electric motors, computer cooling systems, microchips, end mills, money clips, cryogenic container marking systems and building support systems. He has been lead counsel in infringement and invalidity jury trials and at numerous Markman hearings, and has handled patent suits in all of the district courts in California and in Arizona, Colorado, Ohio, New York, Massachusetts, Pennsylvania, Texas and Wyoming.

Mr. Andris' trademark experience includes cases involving domain names, web pages, metatags and claims of infringement through search engine advertising. He was one of the first attorneys in the nation to try a trademark case under the 1999 Federal Anti-Cybersquatting statute to a jury. He recently obtained a judgment that his client's trademark was infringed when it was used by a competitor in the Google Ad Words program. Mr. Andris has resolved disputes involving trade dress in furniture, food packages, exercise equipment and other sporting goods.

Within the area of copyright law, Mr. Andris has resolved infringement claims arising from the background music used in a successful, nationwide television ad campaign for a major rental car agency, an ownership dispute over a series of Angel statuettes, the look and feel of competing educational materials, attribution claims over a series of historical murals, infringement disputes over computer source code, software licensing agreements and dance productions, as well as disputes over importation and distribution rights for DVD's.

Mr. Andris has been quoted on patent, trademark and copyright issues by the *San Francisco Chronicle*, *Wall Street Journal*, *San Jose Mercury and Internet News*, and has also authored articles on these areas for the *National Law Journal*, *the Intellectual & Technology Law Journal*, *the Daily Journal* and *Intellectual Property Today*. Mr. Andris has been a speaker for the Intellectual Property Subdivision of the Bar Association of San Francisco and has been a regular guest speaker on intellectual property matters on *CNET Radio's Legal InCite Talk Show*.

Mr. Andris received his Bachelor's degree in Biological Sciences, with Distinction, from San Jose State University and his J.D. from Santa Clara University School of Law, where he was a Comment's Editor for the *Computer and High Technology Law Journal*. He is admitted to practice before all of the courts of the state of California, the United States District Courts for the Northern, Southern, Eastern and Central Districts, the United States District Courts for the Eastern District of Texas as well as the United States Courts of Appeals for the Ninth Circuit and for the Federal Circuit. He has been counsel in more than 70 state and federal appeals and is licensed to practice before the United States Patent & Trademark Office.

Practice Areas

- Intellectual Property
- Patent Prosecution, Licensing and Litigation
- Copyright, Domain Name and Trademark Litigation
- Copyright, Trade Dress and Trademark Registration
- International Trademark
- Business And Commercial Litigation
- Product Liability
- Unfair Business Practices

Education

- San Jose State University, 1984 B.A.
- Santa Clara University School of Law, 1987 J.D.

Court Admissions

- California
- US Court of Appeals for the Federal Circuit
- US Court of Appeals for the Ninth Circuit
- US Patent and Trademark Office
- USDC: Central District of California
- USDC: Eastern District of California
- USDC: Eastern District of Texas
- USDC: Northern District of California
- USDC: Southern District of California

Memberships & Associations

- American Bar Association (ABA)

Representative Experience

Practice Area: Intellectual Property

This matter involved negotiations between the owner of certain luminescent lanthanide chelate compounds which are used in developing reagent or assay tests for drug testing companies.

Result:

The negotiations were successful and a license agreement was executed.

Practice Area: Intellectual Property, Patent Prosecution, Licensing and Litigation

Key Issues: Patent Infringement

Client Type: Manufacturer

In this utility patent infringement claim between the owner of four patents involving automotive parts and a competing after-market parts manufacturer, we are currently negotiating the resolution of these claims before litigation has been filed.

Practice Area: Copyright, Domain Name and Trademark Litigation, Intellectual Property

Key Issues: Copyright Infringement; Trademark Infringement

Venue: USDC: Northern District of California

Client Type: Defendant Software Manufacturer

This trademark and copyright infringement lawsuit involved the alleged infringement of plaintiff's intellectual property in the metatag language of defendant's Internet website.

Result:

The case was resolved shortly before trial for a small portion of plaintiff's attorneys fees when we successfully moved for summary judgment arguing that plaintiff could not prove any actual damages under the initial interest diversion theory of trademark law or trespass to chattels in cyberspace, and that plaintiff was not entitled to statutory damages under copyright law.

Practice Area: Business And Commercial Litigation, Contract/UCC, International

Key Issues: Arbitration

Venue: San Francisco County Superior Court

Client Type: Manufacturer

This lawsuit involved the alleged breach of an exclusive distribution contract between the manufacturer of health foods and a distributor regarding exportation of such products in China, Hong Kong and Taiwan.

Result:

We recently concluded hearings in a binding arbitration in the liability phase of this action, the result of which is still pending.

Practice Area: Copyright, Domain Name and Trademark Litigation, Intellectual Property

Key Issues: Cybersquatting; Trademark Infringement

Accusations of cybersquatting.

Result:

A standoff was declared when we demonstrated that the Anti-Cybersquatting Consumer Protection Act does not apply to our client's registration of a domain name, since that registration occurred before the claimant adopted the trademark in question.

Practice Area: Copyright, Domain Name and Trademark Litigation, Intellectual Property

Key Issues: Trademark

Client Type: Plaintiff Manufacturer

Competing businesses in the automobile after market care products industry became involved in a dispute over the validity of a registered trademark owned by our client.

Result:

The case settled successfully after we defeated plaintiff's motion for summary judgment which involved the naked license doctrine of trademark law.

Practice Area: Intellectual Property

Key Issues: Trade Dress

Client Type: Defendant Snow Sled Manufacturer

We are currently defending the manufacturer of a line of snow sleds in negotiations where plaintiff claims it has trade dress rights which are being violated. In these negotiations, we have demonstrated that the features of plaintiff's snow sled which it claims trade dress in are functional and, therefore, not subject to trade dress protection.

Practice Area: Unfair Competition/Business Practices

Key Issues: 17200; Unfair Advertising

Venue: Contra Costa County Superior Court

Client Type: Defendant Pregnancy Test Manufacturer

We represented a major manufacturer and a number of its retailers in a Business & Professions Code section 17200/Unfair Advertising law suit based on the accuracy of pregnancy testing kits.

Result:

The case was resolved after defendants expert witness testified for more than six days regarding the accuracy and science involved in defendants' products.

Practice Area: Business And Commercial Litigation

Key Issues: Unfair Business Practices; 17200

Venue: Contra Costa County Superior Court

This unfair business practices claim under California Business & Professions Code section 17200 and California's Anti-Slack - Fill statutes was resolved by a stipulated dismissal after we filed a motion for summary judgment which demonstrated that our client's packaging procedures were in compliance with California law.

Practice Area: Business And Commercial Litigation

Key Issues: 17200

Venue: Contra Costa County Superior Court

Client Type: Defendant Manufacturer

We represented a major manufacturer and a number of its retailers in a Business & Professions Code section 17200/Unfair Advertising law suit based on the accuracy of pregnancy testing kits.

Result:

The case was resolved after defendants expert witness testified for more than six days regarding the accuracy and science involved in defendants' products.

Practice Area: Business And Commercial Litigation, Copyright, Domain Name and Trademark Litigation, Intellectual Property, Trade Secret Protection and Litigation

Key Issues: Trade Secrets; Trademark Infringement

Venue: USDC: Northern District Court of California

Client Type: Defendants

In this misappropriation of trade secrets and trademark infringement lawsuit, we are currently defending ex-employees of the plaintiff who left the company and opened a competing professional services placement business. We were brought into this action thirty days before a hearing on plaintiff's second motion to compel further discovery responses and request for terminating sanctions.

Result:

We filed briefs on the motion and served further discovery responses within two weeks and the motion was ultimately denied.

Practice Area: Copyright, Domain Name and Trademark Litigation, Intellectual Property, Trade Secret Protection and Litigation

Key Issues: Trademark Infringement; Trade Secrets

Venue: USDC: Northern District of California

This trademark and trade secrets lawsuit arose when our clients left their former employer and opened a competing temporary placement agency for accountants.

Result:

The matter was settled before the case was set for trial.

Practice Area: Copyright, Domain Name and Trademark Litigation, Entertainment, Intellectual Property

Key Issues: Copyright Infringement

Venue: USDC: Northern District of California

Client Type: Defendants Production Company & Rental Car Agency

This action for copyright infringement arose when our clients were accused of producing and using a musical composition substantially similar to one composed by the plaintiff twenty years earlier. The accused work was used during a nation-wide advertising campaign for one of the two largest rental car agencies in the U.S.

Result:

We filed motions for summary judgment on the damages issues and the case was successfully resolved in favor of our clients.

Practice Area: Copyright, Domain Name and Trademark Litigation, Intellectual Property

Key Issues: Trademark Infringement

Venue: USDC: Southern District of California

Client Type: Manufacturer

This action for trademark infringement arose between two manufacturers and wholesalers of goods and services to the hair care industry.

Result:

Based in part upon our recommendations, the matter was resolved shortly before trial.

Practice Area: Intellectual Property, Patent Prosecution, Licensing and Litigation

Key Issues: Patent Infringement

Venue: USDC: Northern District of California

Client Type: Plaintiff Manufacturer

This action for patent infringement involved competing manufacturers of integrated electric servo motors used in motion control applications such as robots and assembly lines.

Result:

The court modified its injunction, issued additional sanctions and the matter was resolved shortly thereafter.

Practice Area: Intellectual Property

Key Issues: Breach of Contract

Venue: USDC: Northern District of California

Client Type: Plaintiff Manufacturer

This breach of contract lawsuit arose out of an earn-out provision in a contract for the purchase of our clients Software as Service (SaS) business that allowed web designers to see what their proposed web pages would look like while users were employing various internet browsers.

Result:

After we took the depositions of several key employees at the defendant company who integrated the plaintiff's software into the products offered by defendant, the matter was successfully settled in favor of our clients.

Practice Area: Intellectual Property, Patent Prosecution, Licensing and Litigation

Key Issues: Patent Infringement

Venue: USDC: Eastern District of Pennsylvania

Client Type: Defendant Manufacturer

In a patent infringement action venued in the Eastern District of Pennsylvania, we represented defendants accused of infringing a patent for cooling devices used in personal computers.

Result:

During a five day jury trial the panel submitted a mixed verdict which found that all of the patents dependent claims were invalid as a obvious but that the independent claims were not. This matter is pending appeal in the Federal Circuit.

Practice Area: Intellectual Property, Patent Prosecution, Licensing and Litigation

Key Issues: Patent

Venue: USDC: Central District of California

Client Type: Plaintiff

In patent litigation involving a utility patent issued to the manufacturer of bed legs, we filed a motion for summary judgment which is currently pending in the United States District Court, Central District of California which proves that plaintiff's arguments regarding novelty, the on-sale bar and obviousness under section 103 are meritless.

Practice Area: Copyright, Domain Name and Trademark Litigation, Intellectual Property

Key Issues: Trademark Infringement; Trade Dress

Venue: USDC: Northern District of California, San Francisco Division

Client Type: Defendant

A complaint for trademark and trade dress infringement was filed in the District Court.

Result:

Before we were forced to answer, we successfully negotiated a non-monetary settlement which required client to phase out old labels and replace them with new labels which the client already had in the development stage.

Practice Area: Copyright, Domain Name and Trademark Litigation, Intellectual Property

Key Issues: Trademark Infringement

Venue: USDC: Central District of California

Client Type: Defendant Manufacturer

In a trademark infringement and cybersquatting lawsuit which involved competing manufacturers of condoms, and after extensive settlement negotiations, the lawsuit was tried to a jury verdict in the United States District Court, Central District of California.

Result:

While the jury found that the defendant violated the Lanham Act by registering the plaintiff's trademarks as Internet domain names, the jury found that our client had not caused plaintiff any recoverable damage and went onto award a minimal amount of statutory damages under the Anti-Cybersquatting Consumer Protection Act.

Practice Area: Copyright, Domain Name and Trademark Litigation, Intellectual Property

Key Issues: Copyright Infringement; Trademark Infringement

Venue: USDC: Northern District of California- San Jose Division

Client Type: Defendant Children's Educational Facility

This copyright and trademark dispute between competing after-school educational facilities involved the overall look and feel of a series of hundreds of workbooks designed to teach grade school children mathematics.

Result:

The case was recently resolved for a small fraction of plaintiff's attorney's fees when we successfully moved for summary judgment on plaintiff's claim for statutory damages under copyright law.

Practice Area: Intellectual Property

Key Issues: Infringement

Venue: USDC: Northern District of California- San Francisco Division

Client Type: Plaintiff

An action for infringement of plaintiff's alleged trade dress rights in a line of specialty furniture.

Result:

We negotiated an advantageous non-monetary settlement which required defendant to change only the name of its accused line of furniture.

Practice Area: Copyright, Domain Name and Trademark Litigation, Intellectual Property

Key Issues: Trademark

Venue: USDC: Eastern District of California

Client Type: Coffee Manufacturer

Acted as local counsel for Washington-based coffee manufacturer in a trademark dispute.

Result:

Successfully moved to change venue based on lack of personal jurisdiction. The motion was granted and the case was transferred to the District Court in Washington.

Practice Area: Intellectual Property

Key Issues: Copyright Infringement

Venue: USDC: Northern District of California- San Francisco Division District Court

Client Type: Defendant

This copyright infringement lawsuit involves the alleged infringement of plaintiff's exclusive importation rights over DVD's from Hong Kong to the United States. One of our defenses involved the innocent-infringer doctrine based on the fact that plaintiff failed to give any statutory notice of its distribution rights to defendants or the general public.

Practice Area: Intellectual Property, Trade Secret Protection and Litigation

Key Issues: Trade Secrets

Venue: Santa Clara County Superior Court

Client Type: Defendant Manufacturer

This misappropriation of trade secrets action arose when our clients left their former employer and opened a competing business in the area of manufacturing components for personal computers and other electronic devices.

Result:

We established that the majority of the information that was allegedly "misappropriated" was, in fact, public knowledge in the industry. The matter was settled favorably for our clients.

Practice Area: Copyright, Domain Name and Trademark Litigation, Intellectual Property

Key Issues: Cybersquatting; Trademark Infringement

Venue: USDC: Northern District of California

Client Type: Defendant Online Gaming Company

We successfully settled a case involving claims of cybersquatting, trademark infringement and conversion of a popular domain name used in the on-line gaming arena.

Result:

Settled. Plaintiff failed to recapture all its costs of the litigation.

Practice Area: Intellectual Property, Patent Prosecution, Licensing and Litigation

Key Issues: Patent Infringement

Venue: USDC: Northern District of Ohio

Client Type: Defendant Metal Tool Manufacturer

This action for patent infringement was venued in the Western District of Ohio, and involved competing manufacturers of metal cutting and shaping tools known as end-mills.

Result:

While the motions for summary judgment were pending, the plaintiff dismissed its lawsuit against our clients with prejudice and provided our clients with a life-of-the-patent license at no cost. We proceeded to file an action for

malicious prosecution in the District Court in California, and that matter is now pending review by the Ninth Circuit.

Practice Area: Intellectual Property, Patent Prosecution, Licensing and Litigation

Key Issues: Patent Infringement

Venue: USDC: Northern District of California

Client Type: Plaintiff Manufacturer

This action for patent infringement arose out of the defendants' manufacture and sale of fans used by computer models with integrated LEDs.

Result:

We vigorously litigated the defendants' claims that the patent was invalid and entered into licensing agreements with each of the defendants involved. The case was dismissed.

Practice Area: Intellectual Property, Patent Prosecution, Licensing and Litigation

Key Issues: Patent; Computer; Microchip; Server; Transfer

Venue: USDC: Wyoming

Client Type: Defendant: Blade Server Manufacturer

A twelve-patent infringement action filed against more than 100 computer component manufacturers and suppliers in the USDC in Wyoming.

Result:

In a total of less than six months, we obtained dismissal from the district court in Wyoming based on lack of personal jurisdiction. We then filed a declaratory judgement action in the Northern District of California. These events led to a settlement for less than 4% of the plaintiff's original demand.

Testimonials

▫ Robert Aeschliman

As General Counsel for SuperMicro, I have dealt with a myriad of law firms in many different matters and well understand how different they can be. SuperMicro frequently encounters complicated intellectual property issues which require knowledgeable, responsive, and cost-effective representation. Ropers Majeski is extremely effective at meeting all three criteria. They appreciate that we still have a business to run and make meeting our expectations a priority. Specifically, we appreciate their reporting procedures that keep us up to date and advised of case related developments that impact our litigation objectives. Their representation has allowed us to obtain multiple favorable 'business oriented resolutions' in the past. This is why Ropers Majeski is one our "go to" firms for intellectual property matters.

Publications

- Author, IP Audits, *Smart Business*, 1/1/2012
- Author, America Invents Act makes it cheaper and easier to invalidate patents, *San Francisco Daily Journal*, 9/21/2011

- Author, The Boom in False Patent Marking Litigation, *The Recorder*, 3/31/2011
- Author, I.P. Case Alert - Trademark - *K.C. Multimedia v. Bank of America Technology*, 03/17/09
- Author, I.P. Case Alert - Patent Infringement - *Egyptian Goddess v. Swisa*, 09/24/08
- Author, IP Case Alert - Copyright - *Perfect 10 v. Amazon*, 01/08/08
- Author, IP Case Alert - Trademark- *California Board Sports v. Vans Inc.*, 01/08/08
- Author, I.P. Case Alert - Patent Infringement - *Fujitsu v. Nanya*, 01/08/08
- Author, I.P. Case Alert - Trademark - *Rhoades v. Avon Products*, 11/19/07
- Author, I.P. Case Alert - Trademark - *PerfumeBay, Inc. v eBay, Inc.*, 11/19/07
- Author, I.P. Case Alert - Trademark - *DirectTV v. Huynh*, 11/19/07
- Author, I.P. Case Alert - Trademark Infringement - *Jada v. Mattel*, 09/11/07
- Author, I.P. Case Alert - Trade Dress - *Magic Kitchen v. Good Things International*, 09/11/07
- Author, I.P. Case Alert - Patent Infringement - *In re Seagate Technologies*, 09/11/07
- Author, I.P. Case Alert - Trademark - *Grocery Outlet v. Albertson's*, 09/11/07
- Author, 'Knorr-Bremse' Assists With Patent-Infringement Defense, *San Francisco and Los Angeles Daily Journal*, January 31, 2005
- Author, Supreme Court Clarifies the Meaning of "Origin of Goods" in Trademark Law, *Intellectual Property & Technology Law Journal*, November 1, 2003
- Author, Court Examines Boundary Between Expression, Idea, *Daily Journal*, July 24, 2003
- Author, I.P. Case Alert - Copyright - *Kelly v. Arriba Soft*, July 7, 2003
- Author, I.P. Case Alert - Copyright - *Intel Corporation v. Hamidi*, May 30, 2003
- Author, I.P. Case Alert - Copyright - *Rice v. Fox Broadcasting*, May 29, 2003
- Author, I.P. Case Alert - Trademark - *Permanent Make-Up v. Lasting Impression*, April 30, 2003
- Author, IP Case Alert - Copyright - *Metro-Goldwyn Mayer v. Grokster*, April 25, 2003
- Author, I.P. Case Alert - Unfair Competition - *National Counsel Against Health Fraud v. King Bio Pharmaceuticals*, April 22, 2003
- Author, I.P. Case Alert - Trademark - *International Products v. A2Z Mobile*, April 10, 2003
- Author, I.P. Case Alert - Trademark - *Manhattan skyline, the Silberman v. Innovation Luggage*, 04/03/03
- Author, Moving Away From Brookfield—The Ninth Circuit Reevaluates, *Intellectual Property Today*, April 1, 2003
- Author, I.P. Case Alert - Copyright - *Satava v. Lowry*, March 20, 2003
- Author, Do Software Manufacturers Still Have the License to Sue? , *Intellectual Property & Technology Law Journal*, October 1, 2002
- Author, Defining The Boundaries of Fair in Cyberspace, May 1, 2002

Speaking Engagements

- Insurance & Casualty Litigation 2011 - 2012: The Year in Review, May 23, 2012
- Insurance & Casualty Litigation 2011 - 2012: The Year in Review, May 22, 2012

News

- Savvy IP work helps businesses fend off challenges, *San Francisco Business Times*, 06/19/09
- Savvy IP Work Helps Businesses Fend Off Challenges, *San Francisco Business Times*, June 18, 2009
- "Two VC Firms Square Off in Trademark Fight" , *The Recorder*, 08/03/07
- Record Labels Send Out Notices To File Sharers, *San Jose Mercury News*, October 18, 2004
- Tech, Studio Heavyweights Back New DRM Scheme Intel, Microsoft, Sony, Disney, Warner Bros. - All

- Favor "Advanced Access" System, *Extreme Tech*, July 14, 2004
- "Art, Commerce Clash in Exhibit", *Associated Press (National Syndication)*, July 25, 2003