

Snell & Wilmer



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Main Bio

David Barker is a litigator with trial experience in federal and state court. He also has argued in the United States Court of Appeals for the Ninth Circuit. David focuses his practice on intellectual property and technology litigation, and his case experience includes patent infringement, trademark and trade dress infringement, copyright infringement, unfair competition, false advertising, and trade secret misappropriation, including under the Federal Defend Trade Secrets Act. In addition to intellectual property cases, David advises clients regarding technology issues in a range of business disputes, including breach of contract, technology development agreements, business torts and other matters.

David's experience includes *inter partes* review proceedings before the Patent Trial and Appeal Board, trademark opposition and cancellation proceedings before the United States Trademark Trial and Appeal Board, proceedings under the Uniform Domain Name Dispute Resolution Policy, advertising disputes before the National Advertising Division of the Advertising Self-Regulatory Council and arbitration proceedings before the American Arbitration Association.

David is a registered patent attorney with the United States Patent and Trademark Office and has prosecuted patent, trademark, and copyright applications. He has counseled clients regarding intellectual property portfolio development and strategy, and has experience in licensing, business transactions, due diligence, and clearance, infringement, validity, and patentability analyses. David's technical and case experience includes computer, internet, mechanical, electrical, heat transfer, fluid dynamics, communications, financial and power systems, as well as software, firearms, food processing devices, insulation and medical devices.

David's technical background is suited to the complex and evolving issues surrounding intellectual property and the internet. He has experience dealing with cyberpiracy, defamation and fraud on the internet, with issues arising out of the Digital Millennium Copyright Act, and with potential violators who use technology to shield themselves, their identity and their internet activity.

David regularly contributes to Snell & Wilmer's IP litigation blog, SWIPlit.com.

Education

- Duke University School of Law (J.D., 2006)
 - Executive Editor, Duke Law and Technology Review
 - Secretary, Duke Intellectual Property and Cyberlaw Society (2004-2005)

- Robert William and Robert Wheaton Walter Scholar
- Brigham Young University (M.S., 2003)
- Brigham Young University (B.S., Mechanical Engineering, 2002)
 - Heritage Scholar
 - Member, Tau Beta Pi

Languages

- Swedish

Professional Memberships & Activities

- American Intellectual Property Law Association (2012-2016)
- Association for Unmanned Vehicle Systems International
- Sandra Day O'Connor College of Law at Arizona State University, Patent Litigation, Guest Lecturer (2013-2014)

Representative Presentations & Publications

- "[House Approves Legislation to Create Copyright Small Claims Board](#)," Co-Author, SWIPLit Blog (October 24, 2019)
- "[The Truth Is in the Syrup: Bud Light Ordered to Remove 'No Corn Syrup' from Packaging in False Advertising Battle](#)," Co-Author, SWIPLit Blog (September 18, 2019)
- "[Republishing DNC's Stolen Secrets Not Trade Misappropriation](#)," Author, SWIPLit Blog (August 5, 2019)
- "[Supreme Court to Decide Two Trademark Cases](#)," Co-Author, SWIPLit Blog (July 5, 2019)
- "[Supreme Court Holds Bar on Immoral or Scandalous Trademarks Unconstitutional](#)," Co-Author, SWIPLit Blog (June 25, 2019)
- "[Legislators Propose Patent Eligibility Overhaul](#)," Co-Author, SWIPLit Blog (May 28, 2019)
- "[SCOTUS Resolves Circuit Split: Trademark License Rejection in Bankruptcy Does Not Terminate Licensee's Usage Rights](#)," Co-Author, SWIPLit Blog (May 23, 2019)
- "[Federal Circuit Holds Tribal Immunity Does Not Bar IPR of Tribe-Owned Patents](#)," Co-Author, SWIPLit Blog (July 24, 2018)
- "[Supreme Court Opens the Door to Recovering Lost Foreign Profits in Patent Cases](#)," Co-Author, SWIPLit Blog (June 25, 2018)
- "[Federal Circuit Considers Possible Tribal Immunity from Inter Partes Review](#)," Co-Author, SWIPLit Blog (June 11, 2018)
- "[District Courts Disagree on Venue-Waiver Issues After TC Heartland](#)," Author, SWIPLit Blog (July 26, 2017)
- "[Glimmers of Justice Gorsuch's Prospective IP Jurisprudence](#)," Co-Author, Snell & Wilmer Publication (April 12, 2017)
- "How Does IP Fit Into My Business Plan," Co-Presenter, Snell & Wilmer Seminar (November 15, 2016)
- "3D Printing and the Third Industrial Revolution," Co-Presenter, Snell & Wilmer (June 21, 2016)

- "How Will the Federal Defend Trade Secrets Act Affect Trade Secrets in Arizona?" Co-Presenter, State Bar of Arizona Intellectual Property Section CLE Seminar, Phoenix, AZ (March 14, 2016)
- "[Free Speech, the Right to Bear Arms, and 3D Printing](#)," Author, LinkedIn Pulse (October 27, 2015)
- "[Supreme Court Holds Patent Royalties Expire When Patent Expires](#)," Co-Author, SWIPLit Blog (June 22, 2015)
- "[Protecting food industry innovations as the scope of patentable subject matter narrows](#)," Author, The Record Reporter (March 9, 2015)
- "[Patent Assertion Entity Settles FTC Charges](#)," Co-Author, SWIPLit Blog, (November 12, 2014)
- "[Supreme Court: Patent Owner Bears Burden of Proof in Noninfringement Declaratory Judgment Action By Licensee](#)," Author, SWIPLit Blog (January 23, 2014)
- "[Dish's PrimeTime Anytime and AutoHop Unlikely to Infringe Fox's Copyrights](#)," Author, SWIPLit Blog (July 26, 2013)
- "[Culpable Mental States in Intellectual Property Cases: An Emerging, Common Law-Like Uniformity](#)," Author, Landslide magazine (March/April 2012)
- "Update on Personal Jurisdiction in the Ninth Circuit," Presenter, Snell & Wilmer (September 2011)
- "Managing Your IP Portfolio Through Economic Challenges," Presenter, Snell & Wilmer (June 2010)
- "[Update on Culpable Mental States and Related Ethical and Privilege Implications in Federal Civil Litigation](#)," Co-Author, ABA Business Law Section Spring Meeting, Denver, CO (April 23, 2010)
- "Troll or No Troll? Policing Patent Usage With an Open Post-Grant Review," Author, Duke L. & Tech. Rev.0009 (2005)
- "Temperature Measurements Using a High-Temperature Blackbody Optical Fiber Thermometer," Co-Author with Matthew R. Jones, J. Heat Transfer, 125(3) (2003)

Professional Recognition & Awards

- Southwest Super Lawyers[®], Rising Stars Edition, Intellectual Property Litigation (2012-2017)

Community Involvement

- Madison Meadows Middle School Camp at Friendly Pines, Prescott, Arizona, Volunteer (2013, 2015, 2019)
- Boy Scouts of America
 - Cubmaster and Den Leader, Cub Scout Pack 33 (2010-2011)
 - Eagle Scout
- YMCA Baseball Coach (2010-2011)

Other Professional Experience

- Workman Nydegger, Summer Clerk, Salt Lake City, UT
- Sacks Tierney P.A., Summer Associate, Scottsdale, AZ

Bar Admissions

- Arizona
- United States Patent and Trademark Office

Court Admissions

- Supreme Court of Arizona
- United States District Court, District of Arizona
- United States Court of Appeals, Ninth Circuit