

# Andrea Rush

## Partner

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CALLED TO THE BAR OF QUEBEC,  
1986

CALLED TO THE BAR OF ONTARIO,  
1985

ADMITTED TO THE STATE BAR OF  
MASSACHUSETTS, 2021

## EDUCATION

- LL.M., Computer Software, University of Ottawa, 1985
- LL.B., B.C.L., McGill University, 1982
- B.Mus., McGill University, 1978
- L.Mus., McGill University, 1978

## PRACTICE AREAS

- Intellectual Property
- Information Technology
- Entertainment Law
- Commercial Litigation

Andrea's practice focuses on cross border copyright, trademarks, patents, designs, technology and musicology. As a specialist in IP advocacy, clearance and registration, she represents domestic and foreign companies of all sizes before IP Boards.

Andrea is a Registered Patent Agent, Registered Trademark Agent, and a Specialist in Copyright Law. She has appeared before the Copyright Board and has led interventions to the SCC. Andrea advises owners, users, counsel and insurers on Canadian law, as a member of the Ontario and Québec Bars, (English and French) with an eye to US law (as a member of the Massachusetts Bar, completed New York State Law Exam). Cross-border analysis has proved helpful due to the "here and there" aspects of digital commerce. She chaired the IP Law Specialist Certification Board of the LSO, and lectured at Stanford University, McGill University, U of T, Osgoode Hall (LLM Program on e-commerce) and OCAD University. Government appointments include a Sectoral Advisory Group on International Trade. BMus, LMus, BCL, LLB, LLM, post-graduate certificates in Corporate Finance and Mediation. Ranked in Chambers, Best Lawyers in Canada, Expert Guides. Duff Rinfret Scholar (Department of Justice, Canada), LSO award for CPD.

Clients also appreciate Andrea's ability to service them in both of

- Alternative Dispute Resolution
- Cyber, Information and Privacy Risk
- Life Sciences
- Corporate & Commercial

Canada's official languages, namely French and English.

## EXPERIENCE

- *Candela Corporation v. Naj Ahmadi*, F.C. 2023-07=27 View decision [here](#).
- *Kenover Marketing Corp. v Konya Seker Sanayi Ve Ticaret Anonim Sirketi*, 2022 TMOB 101 [Opposition to Torku Tam & Design] successfully representing the TAM TAM cracker brand, in opposing registration of TORKU TAM & Design. View decision [here](#).
- *9333-4266 Québec inc. v Clearurance, Inc.*, 2020 TMOB 138 View decision [here](#).
- *Engineers Canada/Engenieurs Canada v. MMI-IPCO, LLC*, 2015 FC 839, 255 ACWS (3d) 721 [Trade-Marks Opposition Board, Canadian Intellectual Property Office \(July 9, 2015\)](#). Decision of the Federal Court arising from an appeal from the Trademarks Opposition Board, which held that POLARTEC ECO-ENGINEERING was registrable. Appellant sought a decision from the Federal Court to overturn the Board's decision. The respondent withdrew the application and succeeded on the issue of mootness.
- *Re: Sound v Fitness Industry Council and Goodlife Fitness Centers Inc.*, 2014 FCA 46, 120 CPR 4th.
- *Engineers Canada / Ingénieurs Canada v. MMI-IPCO, LLC*, 2014 TMOB 119, 126 CPR (4th) 285 Trade-Marks Opposition Board, Canadian Intellectual Property Office. Decision of the Trade-Marks Opposition Board establishes rights to register a trade-mark which includes the term "engineering" on appeal.
- *Statement of Royalties to be Collected by Re:Sound in Respect of the Use of Recorded Music to Accompany Physical Activities (2008-2012)* (7 July 2012) C Gaz Supplement I (Copyright Board)
- *Public Performance of Musical Works, Re*, 2012 SCC 36, [2012] 2 SCR 326
- *Canrock Ventures LLC v Ambercore Software Inc.*, 2011 ONCA 414, 204 ACWS (3d) 69
- *Scott Paper Ltd. v Georgia-Pacific Consumer Products LP*, 2010 FC 478, 83 CPR (4th) 273
- *Labatt Brewing Co. Ltd. v Brick Brewing Co. Ltd.* (2009), T-800-09 (FC)
- *Application for Interim Tariff in Respect of the Performance in Public or the Communication to the Public by Telecommunication in Canada of Musical Works* (2009-2011), SOCAN Tariff 22.G.
- *Anheuser-Busch, Incorporated and Labatt Brewing Company Limited v Brick Brewing Company Limited* (2009), T-1440-09 (FC)
- *The Outdoor Channel, Inc. v Bereskin & Parr et al.* (2008), T-1022-08 (FC)
- *Business Consultants, Inc. v. The Human Element, Just a*

- Different Way to Manage* (2008), Application. Nos. 0.882.338 and 0.850.967
- *Cytokinetics Inc. v Cobalt Pharmaceuticals Inc.*, [2008] TMOB No 157, 2008 CarswellNat 3794
  - *Gowling Lafleur Henderson LLP v Fort James Operating Co.* (2008), 73 CPR (4th) 15, 2008 CarswellNat 3736 (TMOB)
  - *Scott Paper Ltd. v Smart & Biggar*, 2008 FCA 129, 291 DLR (4th) 660
  - *Sweet Cherubim Natural Foods Ltd. (Re)*, [2008] TMOB No 34, 2008 CarswellNat 1176
  - *Masterfile Corporation v Richard Samuels* (2008), T-1987-06 (FC)
  - *Georgia-Pacific Consumer Products LP v Kruger Products Ltd.*, [2008] TMOB No 195, 2008 CarswellNat 4580
  - *Sadhu Singh Hamdard Trust v Canada (Registrar of Trade-Marks)*, 2006 FC 171, 47 CPR (4th) 373 (upheld on appeal) Representation of a newspaper chain concerning discretion to refuse grant of an extension request to file a statement of opposition to registration of a trade-mark, which request was filed in a timely manner.
  - *Retail Music Association of Canada v SOCAN* (2006), 52 CPR (4th) 81, 2006 CarswellNat 1523 (Copyright Board)
  - *Smart & Biggar v Canada (Attorney General)*, 2006 FC 1542, 58 CPR (4th) 42 Represented a multinational producer of consumer goods in cancellation of a trade-mark registration pursuant to Section 45 of the Trade-marks Act.
  - *SOCAN v Canadian Association of Internet Providers*, 2004 SCC 45, [2004] SCR 427 Intervention on behalf of a coalition of 400 Internet service providers in proceedings challenging SOCAN Tariff 22.
  - *Intuit Inc. v Quicklaw Inc.* (2002), 19 CPR (4th) 452, 220 FTR 145, aff'd 2003 FCA 230, 122 ACWS (3d) 1123 Appeal from an opposition board proceeding concerning likelihood of confusion between owners of the trade-mark QUICKTAX for software and legal publication, respectively.

## RECOGNITION

- Intellectual Property - Chambers - Nationwide - Canada, 2024
- Intellectual Property - Chambers Global - Canada, The World's Leading Lawyers for Business, 2024
- World Trade-Mark Review (WTR) 1000, 2023
- Intellectual Property - Chambers - Nationwide - Canada, 2023
- Intellectual Property - Chambers Global - Canada, The World's Leading Lawyers for Business, 2023
- Ranked in Lexpert Canada's Leading Lawyers, Special Edition: Technology and Health 2023
- Intellectual Property ("Consistently Recommended") - Lexpert® Canadian Legal Directory 2023
- Intellectual Property Law and Information Technology Law, *Best Lawyers® in Canada* 2024

- Listed in Global Who's Who Legal: Trademarks, 2022
- Listed in Canada Who's Who Legal: Trademarks, 2022
- Listed in Canada Who's Who Legal: Data, 2023
- Recognized in the Lexpert® Special Edition on Technology, 2020
- Expert Guides' Women in Business Law, 2022
- Expert Guides' Trademarks, 2020
- Continuing Professional Development and Long-Term Achievement Award 2015, Law Society of Ontario
- Guide to the World's Leading Lawyers, 2014
- Guide to the World's Leading Trade Mark Law Practitioners, 2014
- IAM Strategy 300, The World's Leading IP Strategists, 2014
- BV® Distinguished™, Martindale Hubbell
- Charles Seton Award, Copyright Society of the USA
- Duff Rinfret Scholar, Department of Justice, Canada
- Scarlet Key, McGill University
- Eastern Provincial Airlines Prize, McGill University
- Steinberg Scholarship, McGill University
- INTA's Panel of Trademark Mediators (PTM)
- Appointment to the WIPO Center, List of Mediators and Arbitrators
- Appointment to The Canadian Institute's Intellectual Property Law Review Editorial Board
- Appointment to INTA's Anticounterfeiting Committee

## MEMBERSHIPS

- Chair, Law Society of Ontario, IP Year in Review
- Co-Chair, ITechLaw Membership Women's International Network (I-WIN) Committee, 2016-17 term
- Board Member, Association Littéraire et Artistique Internationale (ALAI Canada)
- Canadian IT Law Association (IT.Can)
- Canadian National Association of the International Federation of Intellectual Property Attorneys (FICPI Canada)
- Computer Law Association
- Copyright Society of the U.S.A.
- Intellectual Property Institute of Canada
- International Trademark Association
- Scarlet Key Society
- Chair, ABA Copyright Cross-Jurisdiction Subcommittee

## RELATED SPEAKING ENGAGEMENTS

- [December 09, 2021](#)  
Panelist, In Conversation with William Patry, Google

- [April 29, 2020](#)  
Speaker, International Trademark Association 142nd Annual Meeting
- [January 29, 2020](#)  
Speaker, Kaleidoscope Lecture Series: Branding in Colour and Sound, Art and Music
- [January 16, 2020](#)  
Speaker, 24th Intellectual Property Law: The Year in Review

#### RELATED PUBLICATIONS

- [May 21, 2020](#)  
Author, Eye on Intellectual Property in Uncertain Times

#### COMMUNITY SERVICE

- Board of Directors, ALAI Canada
- Trustee, Copyright Society of the U.S.A.
- Editorial Board, Copyright Society of the U.S.A.
- Board of Governors, Technion - Israel Institute of Technology
- Board of Directors, Orchestra Toronto
- Advisory Board, Law, Science & Technology Program, Stanford University (2013)

#### DESIGNATIONS

- Certified Specialist in IP Law (Copyright)