



### Andrew L. Deutsch

Partner

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Andrew Deutsch concentrates in intellectual property litigation and advice, including copyright, trademark, defamation and other First Amendment concerns, trade secret, unfair competition and misappropriation, advertising law, and law of the Internet, social media and electronic databases.

He represents news agencies and publishers in matters arising from electronic and print distribution of news content. He also assists clients in drafting and negotiating web site contracts, trademark and copyright licenses, advertising and sponsorship agreements, confidentiality agreements, employee restrictive covenants, and other methods of protecting intellectual property.

#### LANGUAGES SPOKEN

- French

#### EXPERIENCE

Andrew was lead counsel for the successful defense in *National Basketball Association v. Motorola, Inc.*, 105 F.3d 841 (2d Cir. 1997), a landmark decision that interpreted the scope of the "hot-news" misappropriation tort and preemption of state claims by the federal Copyright Act. He represented a coalition of thirteen media companies as *amici curiae* in the Second Circuit's latest "hot news" and copyright preemption ruling, *Barclays Capital Inc. v. Theflyonthewall.com, Inc.*, 650 F.3d 879 (2d Cir 2011). On behalf of leading options and stock exchanges, he obtained groundbreaking rulings that exchanges that list index-linked exchange-traded funds and options on such funds without a license from index creators do not misappropriate the intellectual property of the index creators or infringe their trademarks (*Dow Jones & Company, Inc. v. International Securities Exchange, Inc.*, 451 F.3d 295 (2d Cir. 2006); *The Nasdaq Stock Market, Inc. v. Archipelago Holdings, LLC*, 336 F. Supp. 294 (S.D.N.Y. 2004)). On behalf of a leading news service, he obtained the first ruling to confirm the viability of "hot-news" misappropriation in the Internet era ( *The Associated Press v. All Headline News Corp.*, 608 F. Supp. 2d 454 (S.D.N.Y. 2009)). On behalf of a major real estate information company, he obtained a key ruling upholding the right of access to electronically archived public records (*Data Tree LLC v. Romaine*, 9 N.Y. 3d 454 (2007)). He obtained an appellate decision that restored the exclusive right of a leading cigar manufacturer to sell COHIBA cigars

#### RELATED SERVICES

- International Trade, Regulatory and Government Affairs
- Intellectual Property and Technology
- Litigation, Arbitration and Investigations
- Trademark and Copyright
- Commercial Contracts Disputes
- Appellate Advocacy

#### RELATED SECTORS

- Media, Sport and Entertainment

#### LANGUAGES SPOKEN

French

in the United States (*Empresa Cubana del Tabaco d./b/a Cubatabaco v. General Cigar Co., Inc.*, 385 Fed. Appx. 29 (2d Cir. 2010)). He won a declaratory judgment determining that *Effie*, a dramatic historical screenplay by actress and screenwriter Emma Thompson, did not infringe an unpublished screenplay dealing with the same historical characters. (*Effie Films, LLC v. Pomerance*, 2012 WL 6584485 (S.D.N.Y., Dec. 18. 2012)). He was co-counsel to Nation Enterprises in *Harper & Row Publishers, Inc. v. Nation Enterprises*, 471 U.S. 539 (1985).

## CREDENTIALS

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### Admissions

- California
- Illinois
- New York

### Education

- J.D., Yale University 1977
- A.B., Vassar College 1973  
*cum laude*  
Phi Beta Kappa
- C.E.P., Institut d'Etudes Politiques de Paris 1974

### Courts

- Supreme Court of the United States
- United States Court of Appeals for the Eleventh Circuit
- United States Court of Appeals for the Fourth Circuit
- United States Court of Appeals for the Ninth Circuit
- United States Court of Appeals for the Second Circuit
- United States Court of Appeals for the Third Circuit
- United States District Court for the Eastern District of New York
- United States District Court for the Northern District of Illinois
- United States District Court for the Northern District of New York
- United States District Court for the Southern District of New York
- United States District Court for the Western District of New York

### Memberships

- Copyright Society of the U.S.A.
- Association of the Bar of the City of New York
- Media Law Resource Center

## INSIGHTS

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### Publications

***Fourth Estate Public Benefit Corp. v. Wall-Street.com*: when can a copyright claimant sue for infringement? Supreme Court says not until the copyright has been registered**

5 MAR 2019

This decision will have an immediate impact on both pending and future copyright infringement lawsuits.

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- "Golan v. Holder: The Copyright Fight Moves from the Court to Congress," *Intellectual Property Magazine* (February 2012)

## Events

## Previous

### The Impact of the Trade Secrets Directive on the Media, Sport & Entertainment industry

18 OCT 2018

Webinar

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- Panelist, "Aggregators, Hot News, and Efforts to Enforce Copyright in the Digital Age," 18th Annual Conference, ABA Forum on Communications Law (Dana Point, CA, February 2013)
- Faculty Member, "Intellectual Property and Social Media: What Are the Legal Rules of the Road?" Pfizer Strategic Legal Thinking Seminars for Nonprofit Executives (New York, November 2012)
- Panelist, "Hot News – Hot New Doctrine or Yesterday's News?" New York Intellectual Property Law Association CLE Program (New York, April 2012)