



AAA Mediation.org™

Jane Michaels, Esq.

Denver, Colorado

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Current Employer-Title Holland & Hart LLP – Attorney

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Profession Attorney; Arbitrator and Mediator; Commercial Litigation, Intellectual Property Litigation (Patent, Trademark, Trade Secrets, Copyright), and Computer Software Litigation

Work History Partner, Holland & Hart LLP, 1980 – Present ; Associate, Holland & Hart, 1974 – 1980; Law Clerk to Honorable William E. Doyle, United States Court of Appeals for the Tenth Circuit, 1973 – 1974.

Experience More than 35 years of experience representing clients in complex commercial and intellectual property cases in diverse industries, including telecommunications, computer/electronics, internet and e-commerce, biotech, publishing, finance, manufacturing, retail, sports, entertainment, real estate, and oil and gas. Practice focuses on business disputes and technology cases, including claims involving breach of contract, licensing and royalty disputes, defective software, electronic commerce, fraud and other business tort claims, partnership disputes, franchise disputes, business dissolution and valuations, covenants not to compete, misappropriation of trade secrets, unfair competition, as well as patent, trademark and copyright infringement.

Representative Intellectual Property Cases:

- * Patent: Represents patent owners as well as accused infringers in patent infringement cases involving assessment of accused technology, validity of patents, royalty payments, design arounds, reasonable royalties, lost profits, willful infringement, enhanced damages, attorney's fees, patent ownership disputes, correction of named inventor, invalid assignment of patents, and related issues.
- * Trade Secrets: Handles misappropriation of trade secrets cases in a wide variety of industries, involving assessment of the "confidential" information, efforts to maintain confidentiality, improper means used to acquire the trade secrets, non-disclosure and non-solicitation agreements, recoverable damages and related issues.
- * Trademark: Representative cases are typically predicated on trademark infringement and defenses to trademark claims, involving analysis of strength of the owner's mark, similarity of asserted and accused mark, similarity of good/services that the marks identify, similarity of marketing channels, accused infringer's intent, actual confusion and other factors related to likelihood of confusion, willful infringement, injunctive relief, licensing, royalties, and recoverable damages.
- * Computer Software Disputes: Represents software vendors as well as software licensees in disputes relating to software performance deficiencies, copyright infringement of software, third-party vendor interfaces, causation of injury, and recoverable damages.
- * Licensing Disputes: Issues typically involve patent owners' rights, exclusivity of license, patent assignments, royalties owed, and related issues.

Representative Commercial Litigation Cases:

- * Breach of Contract: Has handled hundreds of cases involving breach of contract in a variety of

industries and contexts.

* Business Torts: Represents plaintiffs and defendants in cases involving claims of unfair competition, misrepresentation, tortious interference with contract, fraud, breach of duty of good faith and fair dealing, fraudulent inducement and related torts.

* Non-Compete Covenants: Extensive experience with non-compete and misappropriation of trade secrets cases; some experience with other types of employment disputes.

Mediator Experience

Served as a mediator in numerous commercial and intellectual property cases. Mediated licensing disputes arising out of cooperative research and development agreements. Mediated a complex patent infringement action pending in federal court in Dallas involving patented packaging technology. Mediated patent cases involving complicated cross-licensing issues and other business considerations. Served as mediator in computer software cases involving software performance, misappropriation of trade secrets and complex technology issues. Has also served as a mediator in business disputes involving contract and business tort issues. Has mediated disputes involving claims of misappropriation of trade secrets, trademark and copyright infringement.

Representative Issues Handled as a Mediator

Representative examples of recent matters handled as a mediator include the following issues:

- * Breach of exclusive distributorship contract in connection with an FDA-approved disinfectant;
- * Misappropriation of marine equipment designs that were used to start a competing company;
- * Partnership dissolution of a law firm;
- * Patent infringement dispute involving case erector and fan folding machine;
- * Misappropriation of trade secrets in software;
- * Dispute between beneficiaries of a large, complex estate;
- * Trademark infringement in data security services market;
- * Trademark dispute between two major airlines;
- * Dispute between parties to a Cooperative Research & Development Agreement regarding innovative alternative energy source;
- * Numerous disputes involving misappropriation of trade secrets;
- * Numerous disputes involving software performance;
- * Numerous Patent licensing disputes;
- * Numerous Trademark infringement disputes;
- * Numerous disputes involving breach of contract in a variety of industries.

Mediator Style & Process Preferences

My philosophy in mediation is to play an active role in a highly interactive process to facilitate settlement. I typically ask counsel for the parties to submit a confidential mediation statement and to be prepared to discuss diverse approaches to resolution. My strengths as a mediator include good listening skills, flexibility, experience in assessing strengths and weaknesses of cases, perseverance, creativity and a high energy level.

Education

Boston University Law School (JD, cum laude-1973); Harvard University (M.A.T., with honors-1970); Wellesley College (BA, with distinction-1968).

Professional Licenses

Admitted to the Bar: Colorado (1973); U.S. District Court: Eastern District of Texas (2011), District of Colorado (1973), Eastern District of North Carolina (2001), Southern District of Iowa (2000), Middle District of Tennessee (1999); U.S. Court of Appeals: Fourth Circuit (2003), Sixth Circuit (2002), Tenth Circuit (1974), Federal Circuit (1999), District of Columbia (2003); U.S. Supreme Court (1980).

Professional Associations

College of Commercial Arbitrators (Fellow); National Academy of Distinguished Neutrals; American College of Trial Lawyers (Fellow); International Academy of Trial Lawyers (Fellow) (Co-Chair, Colorado State Committee; Board of Directors); International Society of Barristers (2000-2020); Litigation Counsel of America (Fellow); Denver Bar Association (President; Vice President; Board of Trustees); Colorado Bar Association (Vice President; Board of Governors; Executive Council); American Bar Association (Litigation Section; Computer Litigation Committee; ADR Section); International Center for Dispute Resolution (Arbitrator).

Recent Publications & Speaking Engagements

Publications:

- * "Effective Advocacy in Arbitration," The Colorado Lawyer, April 2018
- * "Enforcing Arbitration Awards in Colorado," Practical Law, Thomson Reuters, 2016
- * Co-author, Computerized Case Management: Trial Practice in the 21st Century, International Commercial Litigation, 1998

- * Co-author, The Other Side of Markman, National Law Journal, Intellectual Property Issue, May 1996
- * Rule 408: A Litigation Minefield, ABA Litigation Magazine, Fall 1992

Speaking Engagements:

- * "Winning at Trial: Advocacy in Arbitration," American College of Trial Lawyers Seminar, 2018
- * "Effective Communication with Arbitrators from Initial Submissions to Award," American Arbitration Association, May 2018
- * "Practical Tips to Maximize the Benefits of Arbitration," The Knowledge Group, June 2015
- * "Developing a Trade Secret Protection Plan," 11th Annual Rocky Mountain Intellectual Property and Technology Institute, May 2013
- * "Trial Advocacy Tips: What Jurors Really Think," Thompson Marsh Inn of Court, February 2013
- * "Forty Years Since Keyes v. School District No. 1: A Quality of Education Opportunity and the Legal Construction of Modern Metropolitan America," University of Denver Law Review Symposium, January 2013
- * "An Update on the Perils of False Marking: Assessing the Risk," 9th Annual Rocky Mountain Intellectual Property and Technology Institute, June 2011
- * "Examining the Key Elements of a Compelling Closing Argument," Winning Trial Tactics and Skills, American College of Trial Lawyers seminar, November 2010
- * "Obtaining and Resisting Injunctions in IP Cases: What Lawyers and Litigants Need to Know," 8th Annual Rocky Mountain Intellectual Property and Technology Institute, June 2010
- * "Developments in the Digital World: Blogs, User Created Content and Secondary Liability," 6th Annual Rocky Mountain Intellectual Property and Technology Institute, June 2008
- * "IP Litigation Strategy," panel moderator, 5th Annual Rocky Mountain Intellectual Property and Technology Institute, May 2007
- * "Computer Software Litigation," 4th Annual Rocky Mountain Intellectual Property and Technology Institute, June 2006
- * "Fundamentals of Trademark Law," CLE International, March 2006
- * "Protecting Famous Trademarks: An Update on Dilution Claims," CLE International, June 2005
- * Program Chair and Moderator, Trade Secrets, CLE International, June 2005
- * "Preparing the Federal Court Case for Trial," Faculty of Federal Advocates, December 2004
- * "Effective Motions Practice in Arbitration Proceedings," American Arbitration Association, Continuing Legal Education Series, October 2004
- * "Direct and Cross Examination of Expert Witnesses," Colorado Bar Association CLE Program, September 2003
- * "Copyright Law in the Information Age: The Digital Dilemma," American Corporate Counsel Association, November 2000
- * Keynote Address to New Admittees to the Colorado Bar, October 1999
- * "Thinking Like a Trial Lawyer, Not a Litigator, in an Intellectual Property Case," Computer Law Seminar, January 1998
- * "Trade Secrets Litigation," Computer Law Seminar, March 1996
- * "Revisions to the Federal Rules of Civil Procedure," Federal Court Practice Seminar, January 1996
- * "Trade Secrets Litigation," Computer Law Seminar, March 1995
- * "Trade Secrets Litigation," Law Education Institute and National Continuing Legal Education Conference, March 1994
- * "Use of Demonstrative Evidence in High Tech Cases," American Bar Association National Institute Conference, February 1994
- * "Cutting Edge Computer Tort Litigation Issues," American Bar Association Litigation Section Annual Meeting, October 1993

Mediation Rate

\$705 Per Hour

Languages

English

Citizenship

United States of America

Locale

Denver, CO

The AAA's Rules provide the AAA with the authority to administer a mediation including, mediator appointment, general oversight and billing. Accordingly, mediations that proceed without AAA administration are not considered AAA mediations, even when the parties select an mediator who is on the AAA's Roster.

The information contained in this resume has been supplied solely by the individual mediator and may, or may not, be a complete recitation of their experience. The AAA assumes no responsibility for the content, completeness, accuracy, or reliability of the information contained in a mediator's resume. If you have any questions about a mediator's experience or background, you are encouraged to contact your case manager.

Mediators on the AAA Roster are not employees or agents of the AAA.