



Mark D. Fowler

Partner

US VICE CHAIR, INTELLECTUAL PROPERTY AND TECHNOLOGY GROUP

mark.fowler@dlapiper.com

Silicon Valley

T: +1 650 833 2048

F: +1 650 687 1166

Mark is a patent litigation trial lawyer whose over 30 years of experience includes cases before the International Trade Commission, the Federal Circuit, as well as District Courts in California, Texas, Delaware, Virginia, Wisconsin, Washington, Utah, Florida, Illinois and Ohio.

Mark is also a member of DLA Piper's Executive Committee.

RELATED SERVICES

- Patent Litigation
- Intellectual Property and Technology
- Litigation, Arbitration and Investigations

EXPERIENCE

RECENT MATTERS

- *Intellectual Ventures I LLC et al. v. Toshiba Corporation et. al* – District of Delaware. Represented Toshiba in a district court action brought by Intellectual Ventures asserting 10 patents involving semiconductor memory chips and consumer electronic products. After narrowing the case through *Markman*, summary judgment, dismissals and IPRs, three of IV's eight semiconductor patents went to trial. After an 8-day trial, the jury found in favor of Toshiba, finding that it did not infringe two patents, and finding the third invalid
- *Technology Properties Limited (TPL) LLC v. Samsung Electronics Co., Ltd.* – United States International Trade Commission (ITC) and Northern District of California. Representing Samsung in patent infringement litigation brought against it by TPL that began in the ITC, where we obtained a no violation finding based upon non-infringement. TPL then turned to the district court, where, after we obtained a favorable *Markman* ruling, TPL stipulated to non-infringement and appealed to the Federal District. After the Federal Circuit largely upheld the district court's claim construction, we obtained summary judgment of non-infringement judgment. The case currently is on appeal to the Federal Circuit
- Led the successful defense of a multinational technology company against a \$500M patent infringement claim relating to live streaming technology in the Northern District of California. The jury found that the asserted patent was not infringed. The judgment was later upheld by the Federal Circuit
- *Cresta Technology Corp. v. Samsung Electronics, Silicon Laboratories Inc., et al.* – United States International Trade Commission. Represented Respondents Samsung and Silicon Labs in this investigation involving silicon television tuner technology. Following a trial and Initial Determination, the ITC found no violation by our clients
- Led the successful defense of a multi-national technology company in the Northern District of California against a patent

infringement claim regarding wireless communication. We obtained summary judgment of non-infringement, which was subsequently upheld on appeal to the Federal Circuit. The Federal Circuit's precedential decision addressed a matter of first impression, namely whether statements made during preliminary proceedings in IPRs can result in a prosecution history disclaimer (the Court ruled that they can)

- *Optical Devices, LLC v. Toshiba Corp. et al.* – United States International Trade Commission. Represented the Toshiba respondents in this six patent investigation regarding optical disc drive technology and related servo systems. Obtained Initial Determinations from the ALJ, which were upheld by the Commission, terminating the investigation as to all six patents on the ground that the complainant lacked standing to institute the investigation
- *Cypress Semiconductor Corp. v. GSI Technology, et al.* – United States International Trade Commission and Northern District of California. Represented Respondent GSI Technology, Inc. and certain of its customers in this ITC investigation in which Cypress Semiconductor alleged that GSI's SRAM chips infringed four Cypress patents. The ALJ's Initial Determination found no infringement as to any of the four patents and no domestic industry. The Commission affirmed the non-infringement and domestic industry findings and further found one of the four patents invalid
- *Freescale Semiconductor, Inc. v. Zoran Corp., et al.* – United States International Trade Commission. Represented Respondent CSR in this investigation brought by Freescale involving bus termination circuitry in semiconductor devices. Obtained an Initial Determination (affirmed by the Commission) terminating the Investigation
- *Freescale Semiconductor, Inc. v. CSR (formerly Zoran Corp.), et al.* – United States International Trade Commission. Represented Respondent CSR in this investigation brought by Freescale involving bus termination circuitry in semiconductor devices. Obtained a Final Determination of no violation based upon findings of non-infringement, invalidity and no domestic industry
- Represented a multinational technology client in a five patent United States International Trade Commission investigation concerning mobile device power management and touchscreen technologies. Obtained an Initial Determination by the ALJ, and a Final Determination from the Commission, finding no violation as to all patents based upon findings of non-infringement and no domestic industry
- *NetApp v. Sun Microsystems* and *Sun Microsystems v. NetApp* – United States District Court, Northern District of California. Represented Sun in three District Court patent infringement actions between Sun and NetApp. The parties litigated 39 patents, most of which were directed to storage technology
- *Hynix Semiconductor v. Toshiba Corporation* – United States International Trade Commission. Represented the respondent, Toshiba, in an ITC action where the patents concerned NAND flash memory products. In his initial determination, the ALJ found Toshiba did not violate section 337, Toshiba did not infringe either of the patents-in-suit, one of the patents was invalid, both patents were unenforceable due to inequitable conduct, and Hynix failed to prove that it has a domestic industry in either of the patents
- *Samsung Electronics v. Quanta Computer, et al.* – United States District Court, Northern District of California. Represented the plaintiff, Samsung, in a case where the patent concerned the implementation of hotkey functionality in notebook computers. Obtained \$9 million jury verdict
- *Zoran Corporation v. MediaTek, Inc. et al.* – United States International Trade Commission. Represented complainants Zoran and Oak Technology in asserting three patents related to optical disk controller chips and DVD players. Obtained Exclusion Order and Cease and Desist Order against MediaTek and ten of its customers as to one patent. Case subsequently settled on terms extremely favorable to Zoran and Oak
- *MediaTek, Inc. v. Zoran Corporation* – United States International Trade Commission. Defended respondents Zoran and Oak against allegations of infringing three patents relating to optical disk controller chips. Obtained Initial Determination of non-infringement and invalidity. Case subsequently settled on terms extremely favorable to Zoran and Oak
- *International Rectifier Corporation v. Samsung Electronics Co., Ltd.* – United States District Court, Central District of California. Represented the defendant, Samsung, in a contempt proceeding concerning power MOSFET semiconductor devices. Obtained complete victory for Samsung, including an award of attorneys' fees. Federal Circuit published decision in case reported at 361 F.3d 1355
- *Mitchell v. Samsung Electronics Co., Ltd.* – United States District Court, Northern District of California. Represented the defendant, Samsung, in this patent infringement lawsuit. After a *Markman* ruling favorable to Samsung and oral argument on a motion for summary judgment of invalidity, plaintiff dismissed Samsung
- Led the successful defense of a \$19 million fraud and breach of contract claim in a two-week jury trial
- Obtained a \$6.8 million judgment on behalf of a semiconductor manufacturer in a commercial case

- Obtained a \$3.8 million jury verdict and defeated counterclaim for larger amount in a trial concerning the development of high-speed computers
- Obtained a million-dollar trial judgment for the plaintiff and cross-defendant in a fraud and breach of contract case arising from the sale of a business
- Obtained defense jury verdict in intentional tort and breach of contract case
- Defense award in fraud and breach of contract case against semiconductor manufacturer and its CEO
- Obtained trial judgment for defendant in breach of contract case
- Led the successful trial defense of a client in a multimillion-dollar partnership dispute

CREDENTIALS

Admissions

- California

Recognitions

The respected legal directory, *The Legal 500 United States*, has recommended Mark for his patent litigation practice, because "his attention to detail is exemplary" and for his "superior intellect, judgment and fantastic ability to simplify matters." Also, he is recommended for his "extensive experience in technology," for which he is considered "knowledgeable, responsive, efficient, practical, and aware of client goals." Mark is "an excellent trial lawyer who quickly absorbs technical issues and can make them understandable to non-technical people and is strong on cross-examination."

Chambers and Partners have recognized Mark for his patent litigation and ITC practice in both *Chambers Global* and *Chambers USA*, and has quoted clients who described him as "a superb attorney." The directories have stated that Mark's "clients are particularly pleased with his technical competency" and he "has a strong reputation for handling ITC cases. Clients value his ability to communicate complex technological principles." "He acts for some of the best known hi-tech and consumer electronics companies in the world." In addition, clients noted he is "very good with strategy, a really fantastic writer and is great at oral arguments."

- Named by *IAM Patent 1000: The World's Leading Patent Professionals* (2019)
- Named by the *Daily Journal* as a Leading Intellectual Property Lawyer in California (2018)
- Selected as a Leading Lawyer in the *Lawdragon 500 Leading Lawyers of America* (2018), a guide that recognizes lawyers who are an "ascendant group defined by passion, precision and perspective"
- Named an "Intellectual Property Trailblazer" by *National Law Journal* (2018), which recognized those who "make their mark in various aspects of legal work in the areas of patent, copyright, trademark and trade secret law"
- Named among *IAM Patent 1000's* list of The World's Leading Patent Practitioners and noted as "a well-armed combatant in any forum." *IAM* interviewed lawyers and clients around the world to determine who companies turn to "when only the best patent work will do" (2017)
- Named to the *Daily Journal's* Top 75 California IP Litigators (2015)
- Selected as a "Top Rated Lawyer in Intellectual Property" by *American Lawyer Media* and Martindale-Hubbell (2013)
- Featured along with his DLA Piper partners on the cover of *The Lawyers*, a widely-read Japanese legal publication, with the cover headline, "DLA Piper, the largest law firm in the world with over 4,000 lawyers, has launched IPT practice in Japan"
- Named to the *National Law Journal's* Defense Hot List, identifying Mark's work in the Zoran/Media Tek ITC litigation as one of the firm's noteworthy successes (2006)

Education

- J.D., Stanford University 1986
- Harvard University

- A.B., University of California at Berkeley 1983

NEWS

MEDIA MENTIONS

"34 DLA Piper lawyers in nine countries ranked among The World's Leading Patent Professionals," *DLA Piper*, October 30, 2019