



# “The Changing Landscape Of Patent Litigation”

September 4, 2015

*3:15-4:30pm*

## Moderators:

Jennifer A. Trusso  
Partner  
Sheppard Mullin Richter & Hampton LLP  
[JTrusso@sheppardmullin.com](mailto:JTrusso@sheppardmullin.com)

## Panelists:

Jimmie V Reyna  
Circuit Judge, US Court of Appeals for the Federal Circuit  
[batojim@gmail.com](mailto:batojim@gmail.com)

Isabella Fu  
Associate General Counsel, Microsoft  
[Isabella.Fu@microsoft.com](mailto:Isabella.Fu@microsoft.com)

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[APfeffer@kenyon.com](mailto:APfeffer@kenyon.com)

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## Tab 1 – Biographies or CVs



# United States Court of Appeals for the Federal Circuit

ANNOUNCEMENTS

THE COURT

CASES

CM/ECF

CLERK'S OFFICE

RULES OF PRACTICE

ARGUMENT

MEDIATION



DAILY DISPOSITION

OPINIONS &amp; ORDERS

ORAL ARGUMENT RECORDINGS

JUDGES

JUDICIAL REPORTS

- SHARON PROST,  
Chief Circuit Judge
- PAULINE NEWMAN,  
Circuit Judge
- HALDANE ROBERT MAYER,  
Circuit Judge
- S. JAY PLAGER,  
Circuit Judge
- ALAN D. LOURIE,  
Circuit Judge
- RAYMOND C. CLEVENGER,  
III,  
Circuit Judge
- ALVIN A. SCHALL,  
Circuit Judge
- WILLIAM C. BRYSON,  
Circuit Judge
- RICHARD LINN,  
Circuit Judge
- TIMOTHY B. DYK,  
Circuit Judge
- KIMBERLY A. MOORE,  
Circuit Judge
- KATHLEEN M. O'MALLEY,  
Circuit Judge
- JIMMIE V. REYNA,  
Circuit Judge
- EVAN J. WALLACH  
Circuit Judge
- RICHARD G. TARANTO  
Circuit Judge
- RAYMOND T. CHEN  
Circuit Judge
- TODD M. HUGHES  
Circuit Judge

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## JIMMIE V. REYNA, CIRCUIT JUDGE

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Jimmie V. Reyna was appointed to the United States Court of Appeals for the Federal Circuit by President Barack Obama in 2011. Prior to his appointment, Judge Reyna was an international trade attorney and shareholder at Williams Mullen, where, from 1998 to 2011, he directed the firm's Trade and Customs Practice Group and its Latin America Task Force, and served on its board of directors (2006-08, 2009-11). He was an associate and partner at the law firm of Stewart and Stewart (1986-98). From 1981 to 1986, Judge Reyna was a solo practitioner in Albuquerque, New Mexico and, prior to that, an associate at Shaffer, Butt, Thornton & Baehr, also in Albuquerque, New Mexico.

Judge Reyna served on the U.S. roster of dispute settlement panelists for trade disputes under Chapter 19 of the North American Free Trade Agreement, and the U.S. Indicative List of Non-Governmental Panelists for the World Trade Organization, Dispute Settlement Mechanism, for both trade in goods and trade in services.

Judge Reyna is the author of two books, *Passport to North American Trade: Rules of Origin and Customs Procedures Under the NAFTA* (Shepards 1995), and *The GATT Uruguay Round, A Negotiating History: Services, 1986-1992* (Kluwer 1993) and numerous articles on international trade and customs issues. He was the founder and Senior Co-Editor of the *Hispanic National Bar Association Journal of Law and Policy*.

Judge Reyna is a recipient of the Ohtli Award (the highest honor bestowed by the Mexican government for non-Mexican citizens). Other awards include: 100 Influentials, *Hispanic Business Magazine* (2011); 101 Latino Leaders in America, *Latino Leaders Magazine* 2011, 2012, and 2013; Minority Business Leader, *Washington Business Journal*; Extraordinary Leadership, Hispanic National Bar Association (HNBA); Lifetime Honorary Membership, Society of Hispanic Professional Engineers; Distinguished Citizen Award, Military Airlift Command, U.S. Air Force; Spirit of Excellence Award, Albuquerque Hispano Chamber of Commerce.

Judge Reyna served over a decade of leadership in the HNBA, including as National President (2006-07). He served in various leadership positions in the ABA Sections on International Law and Dispute Settlement. He was a founder and member of the board of directors of the U.S.-Mexico Law Institute, and the Community Services for Autistic Adults and Children Foundation. He currently serves on the Nationwide Hispanic Advisory Council of Big Brothers Big Sisters of America.

He received a B.A. from the University of Rochester in 1975 and a J.D. from the University of New Mexico School of Law in 1978.



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**A. Antony Pfeffer**  
Partner

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## Education

B.S., Nuclear Engineering,  
University of Virginia, *with  
distinction*, 1992

J.D., University of Virginia, 1997

A. Antony Pfeffer has extensive experience representing plaintiffs and defendants in intellectual property litigation matters involving patent infringement and trade secret misappropriation, in state and federal courts as well as before the U.S. International Trade Commission (ITC). He is also experienced in conducting patent office proceedings including inter partes reviews (IPR), reexaminations, and interferences. Mr. Pfeffer's clients have included Toyota, GE Healthcare, Barnes & Noble, Teva, and Imclone Systems, among others.

An engineer by training, Mr. Pfeffer is adept at applying his scientific knowledge to develop litigation strategies for clients in a range of industries. He has litigated cases involving diverse technologies including medical imaging, diagnostics (both clinical and consumer use), expression of recombinant proteins, small-molecule pharmaceuticals, nutritional supplements, automotive, electronic devices, and computer software.

In addition to helping clients resolve disputes, Mr. Pfeffer handles transactional and licensing work that helps to facilitate his clients' strategic growth. This includes drafting, negotiating, and counseling clients on commercial collaborations, joint research arrangements, and a diverse range of other transactions. In addition, he participates in patent prosecution, review, opinion, and clearance work in various technology areas. He is also a contributor to Kenyon's IPR Blog, [www.interpartesreviewblog.com](http://www.interpartesreviewblog.com), a blog dedicated to the latest developments in IPR proceedings and informs readers about key happenings related to the America Invents Act (AIA).

Mr. Pfeffer is a member of the firm's diversity committee.

## Representative Experience

- Teva Pharmaceuticals in district court and on appeal in a matter related to Actonel, an osteoporosis drug. Federal Circuit affirmed the lower court's decision in favor of Teva ruling that plaintiffs' patents were invalid as obvious.
- Barnes & Noble in defending its NOOK eReader products from claims of patent infringement made by Microsoft in the ITC concerning various hardware and software patents.
- Barnes & Noble in defending its NOOK eReader products from claims of patent infringement made by Deep9 in the U.S. District Court for the Western District of Washington. The district court granted summary judgment of non-infringement,



which was affirmed on appeal.

- Infosint SA against H. Lundbeck A/S and Forest Laboratories in a patent infringement lawsuit involving Infosint's patent on a process for making racemic citalopram and escitalopram, the active ingredients in Forest's and Lundbeck's antidepressants Celexa® and Lexapro®. The jury found Infosint's patent valid and infringed by Lundbeck and Forest, and awarded Infosint a \$15 million reasonable royalty.
- GE Healthcare in various district court litigations and patent office proceedings related to ultrasound contrast agents.
- Enzo Diagnostics against Digene Corporation in a patent infringement lawsuit involving Digene's diagnostic test for Human Papilloma Virus resulting in a favorable settlement for our client.
- Teva Pharmaceuticals and Savient Pharmaceuticals at the district court and appellate level against Novo Nordisk. The U.S. Court of Appeals for the Federal Circuit affirmed a judgment by the U.S. District Court for the District of Delaware that the patent, which was related to recombinant human growth hormone, was unenforceable, and holding the sole asserted claim invalid.

#### Select Publications

- "Biologics Set to Take a Place in Generic Healthcare Treatment," *New York Law Journal*, May 2011.
- "Changes to Stem Cell Patents in Europe and the United States," *IP Strategist*, December 2007.

#### Bar and Court Admissions

- New York
- U.S. District Court for the Eastern District of Michigan
- U.S. District Court for the Southern District of New York
- U.S. Court of Appeals for the Federal Circuit
- Registered Patent Attorney: U.S. Patent and Trademark Office

#### Professional Organizations

- Hispanic National Bar Association



# Dalila Argaez Wendlandt

Partner

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## Practice

Dalila Argaez Wendlandt offers clients nearly 20 years of trial and litigation experience in patent, trade secret, and trademark matters. An MIT graduate and a former law clerk for the U.S. Court of Appeals for the Second Circuit, Dalila is a seasoned trial lawyer who merges her advocacy skills and vast knowledge of the intricacies of high technology to help clients shape successful litigation strategies. Her practice focuses on patents and trade secrets in technologies ranging in application from semiconductor fabrication to medical devices and pharmaceuticals, with particular emphasis on electro-mechanical devices and controls algorithms. She has successfully argued at the trial and appellate level, including appearing before the U.S. Supreme Court.

## Experience

- **PerkinElmer Inc. et al. v. Intema Ltd.:** Dalila successfully challenged the patentability and validity of a patent concerning a method of administering pre-natal Down's syndrome screening. Dalila was co-lead counsel at both the trial and federal appellate level, defining and then executing the successful legal strategy for the client.
- **Avery Dennison Corp. v. TransAct Technologies, Incorporated:** As lead trial counsel in a trade secret misappropriation matter, Dalila successfully defeated plaintiff's motion for a preliminary injunction, and secured a victory in the ensuing appeal filed by the plaintiff. The technology at issue concerned food safety labeling devices.
- **Mykrolis Corp. v. Pall Corp.:** Dalila obtained a preliminary injunction on behalf of the patentee against its chief competitor and obtained contempt finding when the competitor subsequently violated the injunction. The technology at issue concerned a mechanism for the quick connection of filters employed in clean room fabrication plants used to manufacture semiconductors.
- **Eastern Enterprises v. Apfel:** Dalila successfully challenged the constitutionality of a federal statute related to the coal industry in the

## Education

- JD, Highest Honors, Stanford Law School, 1996; Article Editor and Article Development Editor, *Stanford Law Review*
- MS (Mechanical Engineering), Massachusetts Institute of Technology, 1993
- BS (Mechanical Engineering), Highest Honors, University of Illinois at Urbana-Champaign, 1991

## Bar Admissions

- U.S. Patent and Trademark Office, 2002
- New York, 2001
- Massachusetts, 1998
- Illinois, 1996

Supreme Court of the United States, resulting in the striking down of the statute on due process and takings grounds.

- **Braun Corp. v. Rayovac Corp.:** On behalf of the owner of a patent covering shaver system technology, Dalila conducted a *Markman* hearing and received a favorable claim construction, which resulted in a favorable settlement for our client.
- **Beacon Mutual Ins. Co. v. OneBeacon Group:** In a trademark infringement, Dalila was lead trial counsel on behalf of a major insurance provider.
- **The Learning Co. v. Zynga, Inc.:** As lead counsel in a trademark misappropriation matter, Dalila helped shape a successful strategy to avoid delays in the development of a new gaming environment.
- **Card Activation Technologies, Inc. v. The TJX Companies, Inc.:** Dalila successfully concluded litigation as lead trial counsel in a patent infringement suit concerning a patent related to a method of using and activating debit card transactions, including gift and phone cards.
- **FutureLogic, Inc. v. TransAct Technologies, Inc.:** Dalila successfully concluded litigation on behalf of a patentee in an action concerning printers used in the gaming industry.
- **Ariel (UK) Limited v. Silver Lake Partners II, L.P.:** The Second Circuit ruled on behalf of Silver Lake on the merits of a brief authored by Dalila in a suit alleging copyright infringement related to electronic trading systems.
- **Mopex Corp. v. State Street Bank:** Dalila represented defendant State Street Bank in multi-defendant patent infringement action concerning patent purportedly covering a business method related to exchange traded funds.

## Awards

- *Boston Business Journal's* Mass High Tech 20 Women to Watch (2014)
- *Massachusetts Super Lawyers - Rising Stars* (2005, 2006)
- Empire State Counsel - New York State Bar Association (2012)

## Insights

### Publications

- Quoted, "High Court Calls For Judges To Get Tough On Patent Trolls," *Law360* (May 27, 2015)
- Co-author, "Dolly The Sheep Loses Patent Protection, But Could Other Clones Get It?" *Forbes* (June 4, 2014)

- Co-author, "Patent protection for human genes ends in the US," *Intellectual Asset Management* (September/October 2013)
- Co-author, "A Roundup® of Two Recent Covenant Not to Sue Decisions," *Bloomberg BNA Patent, Trademark & Copyright Journal* (September 13, 2013)
- Co-author, "Feeling Funk-y: Human Gene Patents in AMP v. Myriad," *Biotechnology Law Report* (September 4, 2013)
- Quoted, "Supreme Court Rejects Human-Gene Patents -- Sort Of," *Forbes* (June 13, 2013)
- Quoted, "High Court's Myriad Ruling Will Spur Novel Patent Claims," *Law360* (June 13, 2013)
- Quoted, "Intema Seeks High Court Review Of Nixed Fetal Test Patent," *Law360* (May 30, 2013)
- Co-author, "The Supreme Court Takes on the Patent Eligibility of Human Genes: AMP v. Myriad," *Biotechnology Law Report* (May 22, 2013)
- Co-author, "Already v. Nike Decision Takes Middle Ground by Tightening Standards for Covenants Not to Sue But Refusing to Expand Standing to Challenge Validity," *Bloomberg BNA's Patent, Trademark & Copyright Journal* (April 19, 2013)
- Quoted, "Big Question For Supreme Court: Can You Patent A Gene?," *Forbes* (April 12, 2013)
- Quoted, "High Court Set to Hear Arguments April 15 on Myriad Gene Patenting Case," *Bloomberg BNA's Patent, Trademark & Copyright Journal* (April 12, 2013)
- Quoted, "High Court Case Could Strike Down Human Gene Patents," *Law360* (April 8, 2013)
- Dalila Argaez Wendlandt and Christine Singer, "The Ripple Effects of the Supreme Court's Prometheus Decision on Patents in the Life Sciences and Financial Services Industries," *BNA Patent, Trademark & Copyright Journal* (April 13, 2012)
- Dalila Argaez Wendlandt and Christine Singer, "Supreme Court Strikes Down A Diagnostic Method in Prometheus," *IP Frontline* (March 27, 2012)
- Quoted, "Fate of gene tests in the hands of the Supreme Court," *Boston Business Journal* (April 12, 2013)

## Presentations

- Presenter, "Patentable Subject Matter & Medical Diagnostics Methods: How Prometheus May Impact Personalized Medicine," Boston Bar Association (May 29, 2013)

- Presenter, “Therasense Revisited: Where Are We Now With Inequitable Conduct?,” Boston IP American Inn of Court (April 2, 2013)
- Presenter, “Developments in Patentable Subject Matter: Prometheus Lends Uncertainty to Patentability of Computer-Implemented Process Claims,” Boston Bar Association – Computer and Internet Law Committee, Intellectual Property Law Committee (March 18, 2013)
- Presenter, “Patentability and Safe Harbor,” Johns Hopkins Technology Transfer Office (March 7, 2013)
- Guest Lecturer, Patent Trial Advocacy Class, Pierce Law School, University of New Hampshire (March 4, 2013)
- Presenter, “Important New Federal Circuit Opinions,” Ropes & Gray Financial Services Roundtable (April 11, 2012)
- Presenter, “*Mayo v. Prometheus*,” Ropes & Gray IP Master Class webinar (April 5, 2012)
- Presenter, “Intellectual Property At The Supreme Court,” Ropes & Gray Current Issues In Technology Transfer Roundtable (September 27, 2012)
- Presenter, “The *Akamai/McKesson* Decision – What It Means For Your Business,” Ropes & Gray IP Master Class webinar (October 17, 2012)
- Presenter, “*Microsoft v. i4i*,” Ropes & Gray IP Master Class webinar (November 9, 2011)
- “Patent Invalidity in Light of *Microsoft Corp. v. i4i Ltd. Partnership*: The Use of Jury Instructions and Special Jury Verdict Forms (TSTV02),” ALI-ABA program (August 4, 2011)

# Isabella Fu

Isabella Fu is Associate General Counsel at Microsoft Corporation, where she is responsible for copyright, trademark, and patent litigation, including matters both inside and outside of the United States. Prior to joining Microsoft, in 2003, Isabella was Director of Litigation at Intel Corporation, where she managed the worldwide litigation function and handled major antitrust and intellectual property matters before courts and regulatory agencies. Before going in-house, Isabella practiced at Wilson Sonsini Goodrich & Rosati and Orrick Herrington & Sutcliffe. She holds a JD from Columbia University and an A.B. in Physics from Harvard-Radcliffe College. Isabella is on the executive committee of the Seattle Intellectual Property American Inn of Court, and on the Pacific Northwest planning committee for ChIPS, an organization dedicated to advancing women in intellectual property fields.



## Jennifer A. Trusso

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### Practices

Healthcare

Intellectual Property

False Advertising,  
Lanham Act and Unfair  
Competition

IP Licensing,  
Technology and  
Commercial  
Transactions

Patent Litigation

Trade Secrets

Trademarks and Trade  
Dress

Litigation

### Industries

Digital Business

Healthcare

Life Sciences and FDA

### Education

J.D., Loyola Law School,  
Los Angeles, CA, 1998,  
*cum laude*, *Order of the  
Coif*

B.A., San Diego State  
University, San Diego, CA,  
1995

### Languages

Spanish

Jennifer Trusso is a partner in the Intellectual Property practice group in the firm's Orange County office and a member of its Latin American team.

### Areas of Practice

Ms. Trusso is a litigator who focuses her practice on patent litigation as well as strategic counseling on patent, trademark, trade secret and copyright matters. Ms. Trusso has lead counsel and trial experience for a number of large patent infringement matters and is particularly skilled in managing large client teams. She has extensive experience in patent infringement litigation involving medical devices, pharmaceuticals, nutraceuticals, computer hardware and software, electrical and mechanical technologies, and semiconductor manufacturing equipment. Ms. Trusso has a track record of successfully resolving cases on summary judgment. She has appeared in federal courts around the country, including the Eastern District of Texas, Delaware District Court, and all District Courts in California. In addition, Ms. Trusso has litigated patent licensing disputes before the ICC. Ms. Trusso has argued before the Federal Circuit, 9th Circuit and California Court of Appeals.

### Admissions

California

District of Columbia

### Honors

Recipient of Sheppard Mullin's 2010 ProBono Attorney of the Year Award

Faculty Academic Honors Scholarship

AmJur Bancroft Whitney Award

## Experience

### Representative Matters

Represented medical device company in a patent infringement action involving spinal implants. The case settled favorably.

Currently representing biotech company in patent licensing dispute in the Central District of California and the ICC (Zurich, Switzerland) involving DNA probes.

Currently representing large computer technology company in patent licensing dispute in the District of Delaware.

Currently representing large computer technology company in patent licensing dispute in the Eastern District of Texas.

Represented defendant high end digital printing manufacturing company in patent infringement action in the Middle District of Florida concerning variable data printing technology. Case settled on favorable terms to the client.

Represented large computer technology company in multi-district DRAM and flash memory patent infringement and anti-trust cases.

Represented plaintiff software company in patent infringement case in Central District of California and Southern District of New York concerning its debt collection software. Case settled on favorable terms to client.

Represented defendant health care information technology company in patent infringement case in Eastern District of Texas concerning Picture Archive Communication Systems (PACS) brought by well known patent troll. Case settled on favorable terms to the client.

Represented defendant software company in copyright infringement case in Central District of California concerning website design software. Plaintiff dismissed case after mediation.

Prevailed on behalf of generic pharmaceutical company in a Hatch-Waxman Paragraph IV patent infringement case involving a low molecular weight heparin. Won at trial and on appeal based on a finding that the patent was unenforceable due to inequitable conduct.

Represented plaintiff nutraceutical company in a patent infringement action against a competitor involving nutritional supplements for joint pain. The case settled favorably.

Represented medical device manufacturer in a patent infringement action involving surgical robots. The case settled favorably after obtaining summary judgment in favor of client.

Represented wireless technology company in misappropriation of trade secrets dispute involving wireless location technology. The competitor had illegally filed a patent application on technology developed by the client. The case settled favorably, which included competitor assigning the patent application and additional technology to the client.

Represented large semiconductor company in business, licensing and general intellectual property disputes.

Represented patent owner in computer-aided manufacturing patent infringement litigation. Case settled favorably after Court construed claims in accordance with patent owner's proposed constructions.

Represented client in patent cross-actions involving remote computer access technology. The case settled favorably.

Represented public wireless telecommunications infrastructure company in business and general intellectual property disputes. Full victory after contested arbitration.

Prevailed on behalf of a maker of semiconductor manufacturing equipment in a patent infringement case involving pattern recognition and alignment systems. Won summary judgment holding the patent invalid based on anticipation and obviousness. Affirmed by the Federal Circuit.

Represented sunglass company in patent infringement action involving lens shape and manufacturing technology. The case settled after several favorable rulings for our client.

Represented sunglass company in a patent infringement action involving polarized polyurethane-based lenses. The case settled favorably.

Represented sunglass company in patent infringement litigation involving Bluetooth technology in sunglass frames. The case is currently on appeal.

Represented defendant sunglass company in patent infringement action in Southern District of Florida concerning magnetic clip-on eyewear. The Court granted summary judgment in favor of client.

Represented large manufacturing company in patent infringement litigation involving automotive fluid replacement devices.

Represented defendant in a trademark infringement case involving ink jet refill cartridges. The court granted summary judgment of noninfringement.

## Articles

"Federal Circuit Holds that "Isolated DNA Molecules" Are Patentable Subject Matter and Method Claims Merely "Comparing" or "Analyzing" Are Not," *Sheppard Mullin Intellectual Property Law Blog*, August 4, 2011

"District Court Holds Gene Sequences Not Patentable Subject Matter," *Sheppard Mullin Life Sciences Law Blog* and *Sheppard Mullin Intellectual Property Law Blog*, May 25, 2010

Sheppard Mullin Hires Local Patent Lawyers, *Orange County Business Journal*, July 14, 2008

## Media Mentions

Desde la Perspectiva... Jennifer Trusso  
*Hispanic Executive*, October 2014

## **Speaking Engagements**

Speaker, "Which Inventions Are Still Protected? Intellectual Property Protection Following the Supreme Court's Most Recent Decisions," Hispanic National Bar Association, March 19, 2015

Panelist, "Impact of the America Invents Act ("AIA") Patent Reform Measure," Hispanic National Bar Association, August 22-26, 2012

Panelist, "Defending Against Patent Assertions from a NPE (Non-Practicing Entity)," Annual HNBA (Hispanic National Bar Association) Convention, September 9, 2010

Panelist, Ernst & Young Holiday Professional Women's Network Event, December 11, 2008

## **Memberships**

Markey Intellectual Property Inn of Court (Member)

Latina Lawyers Bar Association (Member)

State Bar of California (Member)

Orange County Bar Association (Member)

Hispanic National Bar Association (Executive Committee and Member)

Federal Bar Association, Orange County Division (Board of Directors)

Order of the Coif

National Latina Business Women Association of Orange County (Member)

Diversity and Inclusion Committee of Sheppard Mullin (Member)

Diversity and Inclusion Attorney Network (DIAN) of Sheppard Mullin (Member and Mentor)

Women's Lawyers Group of Sheppard Mullin (OC Leader)

Women Attorneys Leadership Council (Member)

Charter 100 (Member)

## Tab 2 – Course Materials (articles, publications, other materials)