

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

1. **Name**: State full name (include any former names used).

Mark Christopher Scarsi

2. **Position**: State the position for which you have been nominated.

United States District Judge for the Central District of California

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

Office: Milbank Tweed Hadley & McCloy LLP
 2029 Century Park East
 33rd Floor
 Los Angeles, California 90067

Residence: Pasadena, California

4. **Birthplace**: State year and place of birth.

1964; Syracuse, New York

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

1993 – 1996, Georgetown University Law Center; J.D. (*magna cum laude*), 1996

1988 – 1993, Syracuse University, School of Computer and Information Science; M.S., 1993

1983 – 1987, Syracuse University, School of Computer and Information Science; B.S., 1987

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name

and address of the employer and job title or description.

2007 – Present

Milbank Tweed Hadley & McCloy LLP

33rd Floor

2029 Century Park East

Los Angeles, California 90067

Managing Partner, Los Angeles Office (2013 – present)

Partner (2007 – 2013)

1998 – 2007

O'Melveny & Myers LLP

400 South Hope Street

Los Angeles, California 90071

Partner (2003 – 2007)

Associate (1998 – 2003)

1994 – 1998

Christie, Parker & Hale LLP

350 West Colorado Boulevard

Pasadena, California 91105

Associate (1996 – 1998)

Summer Associate (1994 – 1996)

1993 – 1994

Lockheed Martin Corporation

12300 Sunrise Drive

Reston, Virginia 20191

Engineer (part-time)

1987 – 1993

GE Aerospace/Martin Marietta/Lockheed Martin Corporation

497 Electronics Parkway

Syracuse, New York 13221

Engineer

(Martin Marietta acquired GE Aerospace and then merged with Lockheed)

7. **Military Service and Draft Status:** Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

I have not served in the military. I registered for selective service upon turning 18.

8. **Honors and Awards**: List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

IAM Patent 1000 Leading Patent Litigator (2018)

Daily Journal “Top Intellectual Property Lawyers” (2017)

Los Angeles Business Journal “Most Influential IP Attorneys” (2018)

Los Angeles Business Journal “Most Influential IP Attorneys” (2017)

Managing Intellectual Property “IP Star” (2015 – 2018)

Daily Journal “California’s Top 75 IP Litigators for 2015” (2015)

IAM Patent 1000 Leading Patent Litigator (2015)

Daily Journal “California’s Top 75 IP Litigators for 2014” (2014)

Daily Journal “California’s Top 75 IP Litigators for 2013” (2013)

Daily Journal “Top Verdicts” (2014)

Daily Journal “Top Verdicts” (2013)

American Lawyer “Litigator of the Week” (2013)

Los Angeles Business Journal “Angelenos to Know in Intellectual Property Law” (2012)

Chambers USA “Leading IP Lawyer” (2009 – 2011)

Daily Journal “Top 50 Intellectual Property Litigators in California” (2009)

IP Law & Business “Top 50 Under 45” (2008)

Magna cum laude, Order of the Coif, Georgetown University Law Center (1996)

Leon Robbin Patent Award, Georgetown University Law Center (1996)

Convocation Speaker, Syracuse University, School of Computer and Information Science (1983)

9. **Bar Associations**: List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

American Bar Association (1996 – present)
Federal Trial and Practice Subcommittee Co-Chair (2003 – 2004)

American Business Trial Lawyers (1998 – 2006)

American Intellectual Property Law Association (1998 – present)

Italian American Lawyers' Association (1997 – 2002)
Board Member (1998 – 1999)

Los Angeles County Bar (1998 – 2015)
Professional Responsibility and Ethics Committee Member (2010 – 2011)

Los Angeles Intellectual Property Law Association (1996 – 2017)
Board Member (2005 – 2006)

10. **Bar and Court Admission:**

- a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

California, 1996
New York, 1998

There have been no lapses in membership.

- b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

United States Supreme Court, 2011
United States Court of Appeals for the Second Circuit, 2010
United States Court of Appeals for the Ninth Circuit, 1997
United States Court of Appeals for the Federal Circuit 1998
United States District Court for the Central District of California, 1997
United States District Court for the Northern District of California, 2000
United States District Court for the Southern District of California, 2013
United States District Court for the Eastern District of New York, 2010
United States District Court for the Southern District of New York, 2010
United States Patent and Trademark Office, 2003

There have been no lapses in membership.

11. **Memberships:**

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Brotherhood Crusade Youth Sports (2007 – present)

California Club (2003 – present)

Dominican Sisters Vision of Hope Board (2014 – present)

Federalist Society (2017 – present)

La Canada Baseball/Softball Association (2007 – present)

Board Member (2012 – 2015)

Chair, Rules Committee (2012 – 2015)

Lincoln Club (2017 – present)

Loyola Law School IP Focus Group Planning Committee (2004 – 2007)

Our Lady of Lourdes School Board (2012)

Republican National Lawyers Association (2017 – present)

St. Bede the Venerable School (2013 – present)

St. Thomas More Society of Los Angeles (2010 – 2011)

USC Intellectual Property Law Institute Planning Committee (2016 – 2017)

- b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

In June 1987, the California Club formally adopted a policy allowing women members. Prior to that date membership was restricted based on gender. In May of that year, the California Club also adopted a non-discrimination policy regarding race and religion. Any discriminatory practices regarding membership

at the California Club preceded my membership by more than fifteen years. To the best of my knowledge, none of the remaining organizations listed above currently discriminates or formerly discriminated on the basis of race, sex, religion or national origin, either through formal membership requirements or the practical implementation of membership policies.

12. Published Writings and Public Statements:

- a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

With Errol Taylor et al., United States: Supreme Court to Decide if USPTOs Inter Partes Review Violates Constitution, Mondaq Business Briefing, June 30, 2017. Copy supplied.

Federal Circuit Limits Joinder in Pre-AIA Lawsuits, Milbank Tweed, May 14, 2012. Copy supplied.

IP: This won't be the year for patent reform, Inside Counsel, June 21, 2011. Copy supplied.

IP: Will copyright Law Give Warner Bros. a Hangover? Inside Counsel, June 7, 2011. Copy supplied.

IP: Supreme Court Poised to Make Fundamental Change to the Nature of Patents, Inside Counsel, Apr. 26, 2011. Copy supplied.

IP: Intellectual Property Interplay, Inside Counsel, Apr. 12, 2011. Copy supplied.

IP: Federal Circuit Flags the 25 Percent Rule and Penalizes the EMV End Run, Inside Counsel, Jan. 25, 2011. Copy supplied.

IP: Learning from the Goldman Sachs Trade Secret Case, Inside Counsel, Dec. 28, 2010. Copy supplied.

IP: Divided Congress May Create Perfect Storm for Patent Reform, Inside Counsel, Nov. 30, 2010. Copy supplied.

The Central District of California: Effectively Navigating the New Home for Patent Litigation, BNA Patent, Trademark & Copyright, Sept. 13, 2010. Copy supplied.

Supreme Court Invalidates Patent on Hedging Risk But Leaves Door Open for

Less "Abstract" Business Method, The Hedge Fund Law Report, July 8, 2010. Copy supplied.

With Miguel Ruiz, *Does a Shift in the Supreme Court Signal a Shift for Software?* Intellectual Property Today, Oct. 2009. Copy supplied.

Ethics: The California Pro Bono Stimulus Package, Los Angeles County Bar Update, Oct. 2009. Copy supplied.

Justice Sotomayor's Influence on Patent Rights, Los Angeles Daily Journal, Oct. 5, 2009. Copy supplied.

With Lawrence Kass and Chris Holm, *Emerging issues for clean energy technologies*, Patents, Litigation & Licensing, July/Aug. 2009. Copy supplied.

With Caitlin Hawks, *Rocket docket no more?* Patent World, June 2009. Copy supplied.

With Blake Reese, *Refining (or Redefining) Patentability: Post – In Re Bilski Developments*, BNA Patent, Trademark & Copyright, Jan. 30, 2009. Copy supplied.

On Writ of Mandamus, Federal Circuit Transfers Patent Case for Convenience under 28 U.S.C. § 1404(a), Following Fifth Circuit Guidance of In Re Volkswagen II, Milbank Tweed, Dec. 30, 2008. Copy supplied.

Shifting Landscape of Software Protection, The National Law Journal, Jan. 21, 2008. Copy supplied.

Deciphering the Technical Side of Written Discovery, Large Law Firm, Sept. 11 2006. Copy supplied.

The Software Code: Unlocking the Mysteries of Software Analysis for Litigators, Law.com, June 27, 2006. Copy supplied.

Sweeping Changes to the U.S. Patent System? Don't Bet on It! Law.com, July 5, 2005. Copy supplied.

Bound and Determined: Cyberlaw Clinic Won't Give Up on Flawed Assertion that Copyright Restrictions on Orphaned Works Violate Constitution, The Recorder, Mar. 2, 2005. Copy supplied.

- b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the

name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

None.

- c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

None.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

March 6, 2018: Speaker, Centerforce USA IP Strategy Summit, Costa Mesa, California. I discussed patent litigation trends for 2018. PowerPoint supplied.

October 27, 2010: Panelist, MCLE Ethics Training Seminar, Los Angeles County Bar Association, Los Angeles, California. I spoke on strategies to clear conflicts in clinic situations with highly vulnerable clients. I have no notes, transcript or recording. The address of the Los Angeles County Bar Association is 1055 West Seventh Street, Suite 2700, Los Angeles, California 90017.

March 20, 2009: Lecturer, Business School Seminar, University of Southern California, Los Angeles, California. I discussed intellectual property and its impact on the economy. PowerPoint supplied.

June 12, 2007: Panelist, IP Focus Series, Loyola Law School, Los Angeles, California. I discussed the impacts of the Supreme Court's *Microsoft v. AT&T* decision. PowerPoint supplied.

April 27, 2007: Panelist, IP Focus Series, Loyola Law School, Los Angeles, California. I discussed the rise of specialized patent courts in the U.S. and their impact on litigation. PowerPoint supplied.

April 28, 2006: Panelist, IP Focus Series, Loyola Law School, Los Angeles, California. I discussed in-house counsel's role in managing intellectual property litigation. I have no notes, transcript or recording. The address of Loyola Law

School is 919 Albany Street, Los Angeles, California 90015.

June 9, 2005: Panelist, International IT Law Conference, Southwestern Law School, Los Angeles, California. I spoke on strategies for litigation involving open source computer software. PowerPoint supplied.

April 14, 2005: Panelist, TechNet Conference, Intel, Santa Clara, California. I discussed litigation implications of California Assembly bills AB 1700 and SB 310. I have no notes, transcript or recording. The address of Intel is 2200 Mission College Boulevard, Santa Clara, California 95052.

June 25, 2003: Panelist, Inland Empire IP Association, Ontario, California. I spoke on strategies to protect Intellectual Property. PowerPoint supplied.

May 1987: Speaker, Syracuse University School of Computer and Information Science Convocation, Syracuse, New York. I spoke regarding the impact of computer science on the development of innovation. I have no notes, transcript or recording. The address of Syracuse University is 900 South Crouse Avenue, Syracuse, New York 13244.

- e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

Joshua Sebold, *Milbank Litigator To Represent Cambridge Analytica*, Daily Journal, Apr. 16, 2018. Copy supplied.

IP Partner Mark Scarsi Comments on Federal Circuit Joint Infringement Ruling, Milbank News, Dec. 27, 2017. Copy supplied.

Shane Nelson, *Top Intellectual Property Lawyers 2017*, Daily Journal, Aug. 16, 2017. Copy supplied.

Milbank Represents Caesars Entertainment Corporation in \$18 Billion Reorganization of CEO Subsidiaries, Milbank News, Jan. 27, 2017. Copy supplied.

Milbank Obtains Successful Decisions on Behalf of Fujitsu In Inter Partes Reviews Before The US Patent & Trademark Office, Milbank News, Oct. 28, 2016. Copy supplied.

The National Law Journal Profiles New IP Special Counsel Kristin Yohannan, Milbank News, Aug. 2, 2016. Copy supplied.

Erin Coe, *Assault on Patent Trolls Leaves NPE Model in Peril*, Law360, Aug. 1,

2016. Copy supplied.

Gina Passarella, *Cadwalader IP Litigator Decamps for Milbank in D.C.*, Law Journal, July 22, 2016. Copy supplied.

Leading Patent Trial Lawyer Joins Milbank, Milbank News, July 19, 2016. Copy supplied.

Henry Meier, *Milbank Moves*, Los Angeles Business Journal, June 13, 2016. Copy supplied.

Erin Coe, *IP Legislation and Regulation to Watch in 2016*, Milbank News, Dec. 24, 2015. Copy supplied.

What Shall We Do About Orphan Works? Law360, Sept. 29, 2015. Copy supplied.

Should Trademarks and License Plates Be Treated The Same? Law360, July 17, 2015. Copy supplied.

Where Do We Stand One Year After Alice? Law360, June 17, 2015. Copy supplied.

Ryan Davis, *Patent Legislation To Watch In 2015*, Law360, Jan. 2, 2015. Copy supplied.

Patent Cases To Watch In 2015, Law360, Jan. 2, 2015. Copy supplied.

Steven Seidenberg, *Patent Trolls Are Getting First Amendment Protection For Their Demand Letters*, ABA Journal, May 1, 2014. Copy supplied.

Hadley Robinson, *Lawyer Sleuthing Uncover Copying In Expert Reports*, Daily Journal, Apr. 2, 2014. Copy supplied.

Ryan Davis, *Demand Letter Bill Would Squelch Worst Patent Trolls*, Law360, Feb. 28, 2014. Copy supplied.

Roger Parloff, *Supreme Court May Endorse Fee-Shifting in Frivolous Patent Suits*, Fortune, Feb. 26, 2014. Copy supplied.

Google Contract Win Shows License Deals Can Thwart Trolls, Law360, Jan. 29, 2014. Copy supplied.

Gabe Friedman, *Lawyers React After U.S. House Passes Troll Act*, Reuters Legal, Dec. 6, 2013. Copy supplied.

Apple Accused Of "Shamelessly" Stealing A Private Inventor's Idea, Dottech.org, Nov. 26, 2013. Copy supplied.

Our Lady of Lourdes Unveils New Activity Center, Angelus News, Nov. 28 2012. Copy supplied.

Lawyer Limelight: Mark Scarsi, Lawdragon Jan. 5, 2012. Copy supplied.

IP Lawyers Weigh in on Microsoft v. I4i Ruling, Law360, June 9, 2011. Copy supplied.

Mark Scarsi Comments on Criticism of US Supreme Court Justices' Attendance at the State of the Union Address, Milbank News, Jan. 27, 2011. Copy supplied.

Erin Coe, *Election Leaves Fate Of Patent Reform Up In The Air*, Law360 Nov. 3, 2010. Copy supplied.

Erin Coe, *Central Calif. Tops Eastern Texas As Patent Hot Spot*, Law360, July 7, 2010. Copy supplied.

If I Were A Senator, I'd Ask Kagan . . ., Law360, May 10, 2010. Copy supplied.

John Ryan, *Lawyer Limelight: Mark Scarsi*, Lawdragon, 2010. Copy supplied.

Anandashankar Mazumdar and Tony Dutra, *First Monday in October Promises Start of Action for IP Cases Before High Court*, Patent, Trademark & Copyright Journal, Oct. 2, 2009. Copy supplied.

Drew Combs, *IP Specialist*, L.A. Business Journal, Aug. 27, 2007. Copy supplied.

Maya Melnert, *Patent Lawyer Will Head Milbank's IP Practice*, Los Angeles Daily Journal, Aug. 21, 2007. Copy supplied.

13. **Judicial Office:** State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

I have not held judicial office.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment? _____

- i. Of these, approximately what percent were:

jury trials: _____%

bench trials: _____% [total 100%]

civil proceedings: _____%

criminal proceedings: _____% [total 100%]

- b. Provide citations for all opinions you have written, including concurrences and dissents.
 - c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).
 - d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.
 - e. Provide a list of all cases in which certiorari was requested or granted.
 - f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.
 - g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.
 - h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.
 - i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.
14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have not held judicial office.

- a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;
- b. a brief description of the asserted conflict of interest or other ground for recusal;
- c. the procedure you followed in determining whether or not to recuse yourself;
- d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

15. **Public Office, Political Activities and Affiliations:**

- a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

I have not held public office.

- b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

None.

16. **Legal Career:** Answer each part separately.

- a. Describe chronologically your law practice and legal experience after graduation from law school including:
 - i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I have not served as a clerk to a judge.

- ii. whether you practiced alone, and if so, the addresses and dates;

I have not practiced law alone.

- iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

1994 – 1998
Christie, Parker & Hale LLP
350 West Colorado Boulevard
Pasadena, California 91105
Associate (1996 – 1998)
Summer Associate (1994 – 1996)

1998 – 2007
O'Melveny & Myers LLP
400 South Hope Street
Los Angeles, California 90071
Partner (2003 – 2007)
Associate (1998 – 2003)

2007 – present
Milbank Tweed Hadley & McCloy LLP
33rd Floor
2029 Century Park East
Los Angeles, California 90067
Managing Partner, Los Angeles Office (2013 – present)
Partner (2007 – 2013)

- iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have not served as a mediator or arbitrator in alternative dispute resolution proceedings.

b. Describe:

- i. the general character of your law practice and indicate by date when its character has changed over the years.

My practice is focused on civil litigation with an emphasis on intellectual property matters. I have substantial courtroom experience in a variety of federal district courts, including the federal district courts in California, New York, Delaware and Texas.

Earlier in my practice I volunteered my time as a criminal prosecutor for the cities of Redondo Beach and Hermosa Beach. In that capacity I conducted approximately twelve criminal jury trials.

- ii. your typical clients and the areas at each period of your legal career, if any, in which you have specialized.

My typical clients include Fortune 100 companies, such as Apple, Google and Lockheed Martin.

- c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

My practice has predominantly involved litigation in federal courts. I appear in federal court frequently. Occasionally, I appear in state court and before arbitration panels.

- i. Indicate the percentage of your practice in:

- 1. federal courts: 65%
- 2. state courts of record: 15%
- 3. other courts: 10%
- 4. administrative agencies: 10%

- ii. Indicate the percentage of your practice in:

- 1. civil proceedings: 85%
- 2. criminal proceedings: 15%

- d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I have tried twenty-eight cases to verdict, judgment or final decision. In twenty cases, I was lead counsel, in eight cases I was associate counsel.

- i. What percentage of these trials were:

- 1. jury: 57%
- 2. non-jury: 43%

- e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I signed the brief in opposition to certiorari in *MedioStream Inc., v. Acer America*

Corp., et al., No. 10-1090, 2011 WL 1356663 (Apr. 6), *cert. denied* 131 S. Ct. 2447 (2011).

17. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

- a. the date of representation;
- b. the name of the court and the name of the judge or judges before whom the case was litigated; and
- c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. *Netairus Technologies, LLC v. Apple Inc.*, Civ. No. 2:10cv03257-JAK-E (C.D. Cal.), *aff'd* 587 F. App'x 658 (Fed. Cir. 2014)

In 2010, Netairus Technologies sued Apple Inc. for infringement of a patent purported to cover the ability of a smartphone to communicate with both a cellular signal and a wifi signal. I was lead counsel for Apple in the matter. We proceeded to a jury trial in November 2013 before United States District Judge John A. Kronstadt of the Central District of California. I delivered the opening statement, conducted direct examination, cross-examined key witnesses and gave the closing argument. At the conclusion of the trial, the jury returned a verdict in Apple's favor on all counts. The Court of Appeals for the Federal Circuit upheld the verdict and the Supreme Court denied certiorari.

Counsel for Plaintiff:

Mark Roth
Roth Fioretti, LLC
311 South Wacker Drive, Suite 2470
Chicago, Illinois 60606
(312) 922-6262

Ray Niro (deceased)
Dean Niro
Vitale, Vickery, Niro & Gasey LLP
311 South Wacker Drive, Suite 2470
Chicago, Illinois 60606
(312) 236-0733

2. *Wi-LAN Inc. v. Apple Inc., et al.*, Civ. No. 2:12-cv-600-JRG (E.D. Tex.), *aff'd* 811

F.3d 455 (Fed. Cir. 2016)

In 2012, Wi-LAN Inc. sued Apple Inc. along with a number of other defendants for infringement of two patents purported to cover the ability of a smartphone to use 3G technology. I was lead counsel for Apple in the matter. Shortly before trial, every other defendant reached a settlement with the plaintiff. Apple proceeded to a jury trial in October 2013 before United States District Judge James Rodney Gilstrap of the Eastern District of Texas. I delivered the opening statement, conducted direct examination, cross-examined key witnesses and gave the closing argument. At the conclusion of the trial, the jury returned a verdict in Apple's favor on all counts. The Court of Appeals for the Federal Circuit upheld the verdict and the Supreme Court denied certiorari.

Co-counsel for Defendant:

Melissa Smith
Gillam & Smith LLP
303 South Washington Avenue
Marshall, Texas 75670
(903) 934-8450

Luke Dauchot
Kirkland & Ellis LLP
300 North LaSalle Drive
Chicago, Illinois 60654
(312) 862-9292

Counsel for Plaintiff:

Sam Baxter
McKool Smith
104 East Houston Street, Suite 300
Marshall, Texas 75670
(903) 923-9001

Robert Cote
Cote Capital
22 West 22nd Street
New York, New York 10010
(212) 967-2215

Dirk Thomas
Dirk D. Thomas, PLLC
1775 Eye Street, NW, Suite 1150
Washington, DC 20006
(202) 587-5690

3. *Callwave Communications v. Google Inc., et al.*, C.A. No. 12-cv-1701, 1704,

1788-RGA, 207 F. Supp. 3d 405 (D. Del. 2016)

In 2015, Callwave Communications sued Google Inc. for patent infringement based on a number of patents purported to cover Google's mobile advertising platform. I was lead counsel for Google. In 2017, we brought a motion to invalidate the patents based on the Supreme Court's recent *Alice* decision. I supervised the briefing on the motion and presented oral argument on the motion before United States District Judge Richard G. Andrews of the District of Delaware. Judge Andrews ruled in favor of Google, disposing of the matter.

Co-counsel for Defendant:

Jack Blumenfeld
Morris, Nichols, Arsht & Tunnell
1201 North Market Street, 16th Floor
Wilmington, Delaware 19899
(302) 351-9291

Counsel for Plaintiff:

William Belanger
Pepper Hamilton, LLC
124 High Street, 19th Floor
Boston, Massachusetts 02110
(617) 204-5101

4. *Wi-LAN Inc. v. Apple Inc.*, Case No. 13cv0798 DMS (N.D. Cal.), *aff'd* 830 F.3d 1374 (Fed. Cir. 2016)

In 2013, Wi-LAN Inc. sued Apple Inc. for infringement of a patent purportedly covering the use of the LTE data protocol in a mobile device. I was lead counsel for Apple on the matter. Shortly before trial we brought a motion for non-infringement before United States District Judge Dana M. Sabraw of the Northern District of California. I supervised the briefing on the motion and presented oral argument on the motion. Judge Sabraw ruled in favor of Apple, disposing of the matter. Wi-LAN appealed the decision to the Court of Appeals for the Federal Circuit, where I again was lead counsel for Apple. I supervised the briefing on appeal and presented oral argument to the Federal Circuit on behalf of Apple. The Federal Circuit upheld Judge Sabraw's decision and the Supreme Court ultimately denied certiorari.

Counsel for Plaintiff:

Robert Cote
Cote Capital
22 West 22nd Street
New York, New York 10010
(212) 967-2215

Dirk Thomas
Dirk D. Thomas, PLLC
1775 Eye Street, NW, Suite 1150
Washington, DC 20006
(202) 587-5690

5. *Rembrandt Patent Innovations, LLC v. Apple Inc.*, Civil Action No: C 14-05094, 05093-WHA (N.D. Cal.), *aff'd* 716 F. App'x 965 (Fed. Cir. 2017)

In 2014, Rembrandt Patent Innovations, LLC sued Apple for infringement of a patent purportedly covering the procedure Apple used to restart its mobile devices upon a failure. I was lead counsel for Apple on the matter. Shortly before trial we brought a motion for non-infringement before United States District Judge William Haskell Alsup of the Northern District of California. I supervised the briefing on the motion and presented oral argument on the motion. Judge Alsup ruled in favor of Apple, disposing of the matter. The Court of Appeals for the Federal Circuit upheld Judge Alsup's decision.

Counsel for Plaintiff:

Gerald Ivey
Finnegan, Henderson, Farabow, Garrett & Dunner LLP
901 New York Avenue, NW
Washington, DC 20001
(202) 408-4110

6. *Space Systems/Loral, Inc. v Lockheed Martin Corp.*, C-95-3530 SI (N.D. Cal.)

In 2006, on remand from the Federal Circuit Court of Appeals, Lockheed Martin Corp. brought a motion to reconsider a claim construction order relating to a patent for satellite station keeping. I was co-counsel for Lockheed Martin in this matter. Lockheed Martin prevailed on its motion before United States District Judge Susan Illston of the Northern District of California. I drafted the briefs in the matter and assisted with the oral argument. Upon prevailing on the motion, the parties reached settlement in the matter.

Counsel for Plaintiff:

Greg Dovel
Dovel & Luner
201 Santa Monica Boulevard, Suite 600
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David E. Rosen
Murphy Rosen LLP
100 Wilshire Boulevard, Suite 1300
Santa Monica, California 90401

(310) 899-3300

7. *In the Matter of Certain Semiconductor Devices*, Inv. No. 337-TA-607

In 2007, Samsung Corporation and Renesas Technology Corp. (a joint venture of Mitsubishi and Hitachi) filed competing requests for investigation before the United States International Trade Commission regarding patent infringement claims of several semiconductor patents. I was co-counsel for Renesas Technology Corp. in these matters. Judge Carl C. Charneski conducted a series of evidentiary hearings on these matters in 2008. At the hearings, I conducted direct examination, cross examined key witnesses and presented closing argument. The parties ultimately settled the dispute prior to final disposition.

Counsel for Samsung:

Ruffin Cordell
Fish & Richardson
901 15th Street, NW, Suite 700
Washington, DC 20005
(202) 626-6449

Michael McKeon
Fish & Richardson
901 15th Street, NW, Suite 700
Washington, DC 20005
(202) 626-6448

8. *In re Young Broadcasting Inc., et al.*, Case No: 09-10645-ajg, 430 B.R. 99
(Bankr. S.D.N.Y. 2010)

In 2009, Young Broadcasting Inc. entered into restructuring proceedings. I was co-counsel for the Committee of Senior Secured Lenders. The matter proceeded to a plan confirmation trial before Judge Arthur J. Gonzalez of the United States Bankruptcy Court for the Southern District of New York. At the trial, I conducted direct examination and cross examined several key witnesses. At the conclusion of the matter, Judge Gonzalez confirmed the plan of the Senior Secured Lenders.

Opposing Counsel:

Peter Wolfson
Dentons US LLP
1221 Avenue of the Americas
New York, New York 10020
(212) 768-6840

Andrew Ehrlich
Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas

New York, New York 10019
(212) 373-3166

9. *Lockheed Martin Corporation v. Jeffrey Roger Munk*, Civil Action No. 2:07-cv-01792 ODW (C.D. Cal.)

In 2007, Lockheed Martin Corporation brought this action against Jeffrey Roger Munk to recover patent rights wrongfully asserted against Lockheed Martin for production of a hybrid air vehicle. Upon defeat of an omnibus motion for summary judgment brought by our opponent, the parties ultimately settled this matter. I supervised all briefing in this matter and present oral argument before United States District Judge Otis D. Wright II of the Central District of California.

Counsel for Defendant:

James Kyper
Greenleaf Corp
18695 Greenleaf Drive
Saegertown, Pennsylvania 16433
(814) 763-2915

10. *People v. Delano Grant*, Case No.2SB02939 (LA Sup. Ct. 2002)

Early in my career I worked as a prosecutor and conducted a number of criminal jury trials on behalf of the Cities of Redondo Beach and Hermosa Beach. I was lead trial counsel on each of these matters. In total, I prosecuted twelve matters, with each matter reaching a verdict. In the case cited above, I prosecuted a defendant accused of spousal battery before Judge Sandra Thompson of the Los Angeles Superior Court located in Torrance, California.

Co-Counsel/Supervising Counsel:

Michael W. Webb
City Attorney's Office
415 Diamond Street
Redondo Beach, California 90277
(310) 318-0655

18. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

In addition to litigation in court, I have also spent considerable time analyzing the strengths and weaknesses of intellectual property claims prior to litigation. I have not

performed lobbying activities on behalf of clients or organizations.

I have also been involved in a number of bar associations in various capacities. For several years, I served on the Professional Responsibility and Ethics Committee of the Los Angeles County Bar Association. In this capacity I wrote an article relating to ethical standards, attended regular committee meetings focused on the development and interpretation of ethical standards and spoke on ethics and professional responsibility.

19. **Teaching:** What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

I taught Legal Writing to first year law students as a third year law student at Georgetown University Law Center during the 1995–1996 academic year. I do not have a copy of the syllabus.

20. **Deferred Income/ Future Benefits:** List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

Upon withdrawal from my current law firm, I will be eligible for a withdrawal benefit payment in lieu of a retirement pension. This payment is 150% of my last year's income.

21. **Outside Commitments During Court Service:** Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

I have no plans, commitments or agreements to pursue employment, with or without compensation, during my service with the court.

22. **Sources of Income:** List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding \$500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

See attached Financial Disclosure Report.

23. **Statement of Net Worth:** Please complete the attached financial net worth statement in detail (add schedules as called for).

See attached Net Worth Statement.

24. Potential Conflicts of Interest:

- a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

Cases most likely to present potential conflicts of interest would be those related to my representations in private practice. I would also recuse myself in matters involving my family and my own financial interests. If a question of recusal were to arise, I would evaluate it on a case-by-case basis, take input from the parties and their counsel, consider the relevant rules and statutes, and recuse myself when appropriate.

- b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

When actual or potential conflicts arise, I will review them on a case-by-case basis in accordance with 28 U.S.C. § 455 and Canon 3 of the Code of Conflict for United States Judges. Where appropriate, I will seek input from the parties and their counsel. In all instances, I will recuse myself from matters which raise actual or apparent conflicts.

- 25. Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

I have consistently performed pro bono legal service regularly throughout my career. I estimate that I have spent, on average, forty hours per year on pro bono matters. Notable pro bono matters have included:

Representing an elderly individual in Landlord/Tenant Court who had fallen victim to a reverse mortgage sham transaction. I devoted approximately eighty hours to this effort.

Representing a transgender adult seeking asylum based on an inability to return to her country of origin. I devoted approximately forty hours to this effort.

Representing families seeking adoption of children in Family Court in Los Angeles. I devoted approximately eighty hours to this effort.

Representing juveniles seeking SJIS status in Immigration Court and supervising other attorneys at Milbank in this effort. I devoted approximately twenty-five hours to this effort.

26. Selection Process:

- a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

In April 2017, I sent my resume to the White House Counsel's office indicating my interest in being considered for a position as a district court judge. In June of 2017, I met with Senator Hatch and expressed by interest in a district court position. On August 17, 2017, I interviewed with attorneys from the White House Counsel's Office and the Office of Legal Policy at the Department of Justice. At that meeting I was encouraged to submit an application to Senator Feinstein's Selection Committee, which I did four days later on August 21, 2017. On March 2, 2018, I submitted an application to Senator Harris's Selection Committee, which had recently formed. On June 5, 2018, I was notified by the White House Counsel's Office that my name was sent to the Department of Justice to begin formal vetting. On October 10, 2018, I received a call from an attorney in the White House Counsel's office informing me that the President intended to nominate me for the position of United States District Judge for the Central District of California. On December 13, 2018, I was contacted by the chairman of Senator Harris's Central District Judicial Selection Committee who invited me to interview with that committee. I interviewed with that committee on December 18, 2018 in Los Angeles, California. On January 3, 2019, my nomination was returned to the President under the Senate rules. On February 6, 2019, the President resubmitted my nomination to the Senate. Since June 6, 2018, I had been in contact with officials from the White House Counsel's Office as well as the Office of Legal Policy at the Department of Justice.

- b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.