

Expert Witness Experience

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I have worked as an expert witness since 1988. Below, in reverse chronological order, are the cases with which I have been involved. Six cases have gone to trial. For each case I have underlined the client by whom I was engaged.

25. *Firm:* Goodwin Procter LLP, Washington, DC

Date: January 2016 –

Litigants: Personalized Media Communications, LLC v. Samsung Electronics America, Inc.

Case: Declaration of state of the art in computing

Venue: Eastern District of Texas (Marshall)

Resolution: Ongoing.

24. *Firm:* Goodwin Procter LLP, Washington, DC

Date: January 2016 –

Litigants: Personalized Media Communications, LLC v. Apple, Inc.

Case: Infringement of Harvey '635 and '091 patents

Venue: Eastern District of Texas (Marshall)

Resolution: Ongoing.

23. *Firm:* Irell and Manella LLP

Date: November 2015 –

Litigants: ZOLL Medical Corp. v. Respironics, Inc.

Case: Infringement of US Patent 6,681,003

Venue: US District Court for District of Delaware

Resolution: Ongoing.

22. *Firm:* Goodwin Procter LLP, Washington, DC

Date: April 2015—

Litigants: Personalized Media Communications, LLC v. Amazon, Inc. and Amazon Web Services LLC

Case: CBM review of two patents

Venue: Patent Trial and Appeal Board, USPTO

Resolution: Ongoing.

21. *Firm:* Hunton and Williams, Atlanta, GA

Date: June 2014-April 2015

Case: *Inter partes* review of four patents
Venue: Patent Trial and Appeal Board, USPTO
Resolution: Settled.

20. *Firm:* Mayer Brown, Washington, DC
Date: June-September 2014
Litigants: buySAFE, Inc. v. Google, Inc.
Case: buySAFE alleged that Google infringed its patents for payment processing.
Court: US District Court, Eastern Virginia, Alexandria, VA
Resolution: Settled; no documents written or depositions taken.

19. *Firm:* Goodwin Procter LLP, Washington, DC
Date: 2013-
Litigants: Encyclopaedia Britannica v. Dickstein Shapiro
Case: EB claimed that DS erred in patent prosecution such that issued patents were later found to be invalid.
Court: U.S. District Court, Eastern Virginia
Resolution: Awaiting claim construction.

18. *Firm:* Kecker and Van Nest LLP, San Francisco, CA, and Troutman Sanders, Richmond, VA
Date: 2011
Litigants: VT Technologies v. Twitter
Case: VT Technologies accused Twitter of infringing its patent that purported to define a method and system for creating a virtual community of famous people. I testified that Twitter did not infringe. The jury found that the patent was not infringed and was invalid.
Court: U.S. District Court, Eastern Virginia (Norfolk)
Resolution: Patent not infringed; patent invalid.

17. *Firm:* Goodwin Procter LLP, Washington, DC
Date: 2011-2013
Litigants: Augme v. Pandora
Case: Augme accused Pandora of patent infringement regarding the operation of Pandora's personalized radio systems.
Court: U.S. District Court, Eastern Virginia (Alexandria)
Resolution: Settled.

16. *Firm:* Goodwin Procter LLP, Washington, DC
Date: 2009-2013
Litigants: ePlus, Inc. v. Lawson Software
Case: ePlus alleged that Lawson's electronic purchasing system infringed multiple claims in three of ePlus's patents with regard to searching multiple electronic catalogs, creating requisitions, and issuing purchase orders to multiple vendors.
Court: U.S. District Court, Eastern Virginia (Richmond).
Resolution: Verdict in favor of ePlus. The patents are valid and several claims infringed. ePlus won contempt of court against Lawson for continued infringement.

Date: 2009—2010

Litigants: Netscape Communication Corp. v. ValueClick and subsidiaries

Case: Netscape alleged that ValueClick's online advertising business infringed the claims of its "cookie" patent with respect to the operation of web browsers and web servers.

Court: U.S. District Court, Eastern Virginia (Alexandria)

Resolution: Settled.

14. *Firm:* Alston & Bird

Date: August 2007—February 2008

Litigants: Nokia v. Qualcomm

Case: Nokia alleged that Qualcomm infringed multiple claims of its patents on data exchange methods.

Resolution: Unknown. No reports, depositions, or testimony took place.

13. *Firm:* Jones Day, Austin, Texas

Date: 2006-2007

Litigants: IBM vs. Amazon

Case: I was retained, but the case settled before any expert witness work was required.

Resolution: Settled.

12. *Firm:* Hunton & Williams, Washington, DC

Date: 2005—2006

Litigants: ePlus, Inc. v. SAP

Case: ePlus alleged that SAP's electronic purchasing system infringed multiple claims in three of ePlus's patents with regard to searching multiple electronic catalogs, creating requisitions, and issuing purchase orders to multiple vendors.

Court: U.S. District Court, Eastern Virginia (Alexandria).

Resolution: Settled.

11. *Firm:* Kirkland & Ellis, New York, New York.

Date: 2004—2006

Litigants: Hewlett-Packard v. Foundry Networks

Case: HP alleged that Foundry Networks manufactures products (routers) that infringe one claim of its patent for a method of providing security in computer networks.

Court: U.S. District Court for District of Delaware

Resolution: Settled.

10. *Firm:* Kirkland & Ellis, New York, New York.

Date: 2004—2006

Litigants: Hewlett-Packard v. Extreme Networks

Case: HP alleged that Extreme Networks manufactures products (routers) that infringe one claim of its patent for a method of providing security in computer networks.

Court: U.S. District Court for District of Delaware

Resolution: Jury trial resulted in a split decision. On summary judgment the judge granted plaintiff's motion for a new trial. The case then settled.

9. *Firm:* Hunton & Williams, Washington, DC

Date: 2004—2005

Litigants: ePlus, Inc. v. Ariba

Case: ePlus alleged that Ariba's electronic purchasing system infringes multiple claims in three of ePlus's patents with regard to searching multiple electronic catalogs, creating requisitions, and issuing purchase orders to multiple vendors.

Court: U.S. District Court, Eastern Virginia (Richmond).

Resolution: All asserted claims were found to be valid and infringed.

8. *Firm:* Venable, Washington, DC

Date: 2004

Litigants: Simplification, LLC v. Block Financial Corp.

Case: Simplification alleged patent infringement by Block Financial. On behalf of Simplification, I provided consultation regarding claim construction.

Court: U.S. District Court, Delaware.

Resolution: Unknown.

7. *Firm:* Swidler Berlin Shereff and Friedman, Washington, DC

Date: 2003—2004

Litigants: 3COM v. D-Link

Case: 3COM alleged that D-Link Ethernet products infringe multiple claims of its patents regarding Ethernet operation. With a technical partner, I provided an analysis of the operation of D-Link Ethernet products and consulted on claim construction.

Court: U. S. District Court, Northern California.

Resolution: Case abandoned by plaintiff.

6. *Firm:* Hunton & Williams, Washington, DC

Date: 2001—2008

Litigants: MercExchange LLC v. eBay

Case: MercExchange had early (1995) patents regarding electronic commerce, selling goods at auction electronically and paying for goods online. MercExchange alleged that eBay infringed three of its patents with its electronic auction, "buy it now" fixed-price option, and electronic payment via PayPal. On behalf of MercExchange I provided numerous expert reports and two depositions regarding the operation of eBay, my opinion that eBay's system did infringe multiple claims in three of MercExchange's patents, and that the patents were valid in light of prior art. The case went to jury trial in April-May 2003 before Judge Jerome Freidman in the Eastern District of Virginia, Norfolk Division. I was qualified as an expert witness in computer science and electronic commerce before Judge Friedman.

Court: U.S. District Court, Eastern Virginia (Norfolk).

Resolution 1: The validity of certain claims pertaining to electronic auctions were dismissed on summary judgment (inadequate written description), but the remainder of the case went to jury trial. In the two surviving patents, the jury upheld the validity of both and decided in favor of MercExchange on all counts of alleged infringement.

Resolution 2: Federal circuit confirmed the jury verdict. On the question of whether the judge should issue a permanent injunction against eBay, the Supreme Court remanded the case to the trial judge for a new decision. eBay then purchased a license from MercExchange.

5. *Firm:* LeClair Ryan, Richmond, VA

Date: 2000

Litigants: John Lynch and First Union Capital Markets v. Scott Prendergast

Case: John Lynch, who operated the Lynch Retirement Group for First Union, alleged that Scott Prendergast, a former employee, copied proprietary customer account data from LRG/FU when he left that firm to start his own retirement planning business. I examined a database of customer information recovered from Scott Prendergast's computer and concluded that it could only have originated from information belonging to LRG/FU. I was qualified as an expert in computer science before Judge T. S. Ellis in the Eastern District of Virginia (Alexandria) and testified before him.

Court: U.S. District Court, Eastern Virginia (Alexandria)

Resolution: Prendergast was found guilty of data theft.

4. *Firm:* Kirkland & Ellis, New York, NY

Date: 1999

Litigants: Cisco v. Lucent

Case: Cisco and Lucent counter-sued each other for infringement of each company's patents in the area of Virtual Private Network (VPN) establishment in ATM fiber optic network routers. On behalf of Lucent, I consulted on product and patent analysis.

Resolution: Settled.

3. *Firm:* Pennie and Edmonds, New York, NY

Date: 1996

Litigants: Hewlett-Packard v. C. S. Telecom

Case: C. S. Telecom alleged that HP's use of multicast and broadcast addressing in its IEEE 802.3 (Ethernet) product infringed multiple claims of one of its patents. On behalf of HP, I provided an expert report supporting HP's position that it did not infringe.

Resolution: Settled.

2. *Firm:* Weingarten, Shurgin, Gagnebin & Hayes, Boston, MA

Date: 1993

Litigants: Proteon v. C. S. Telecom

Case: C. S. Telecom alleged that the Proteon Pronet local area network infringed multiple claims of its token ring patent. On behalf of Proteon, I provided an expert report and a deposition supporting my opinion that the Pronet product did not infringe.

Resolution: Settled.

1. *Firm:* Latham and Watkins, Washington, DC

Date: 1988

Litigants: Hewlett-Packard v. IBM

Case: The federal government awarded the FAA Advanced Automation System project to IBM. HP contested the award, alleging that the IBM proposal did not meet the RFP's requirements with regard to its choice of local area networks. On behalf of HP, I testified before an administrative law judge on the meaning and status of the IEEE 802.5 token ring standard.

Court: hearing held before an administrative law judge

Resolution: HP lost its appeal.

Updated: October 10, 2016