

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Kara Farnandez Stoll
Kara Ann Farnandez

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

United States Circuit Judge for the Federal Circuit

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: Finnegan, Henderson, Farabow, Garrett and Dunner, L.L.P.
901 New York Avenue, NW
Washington, D.C. 20001

Residence: McLean, Virginia

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

1968; Wilmington, Delaware

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.

1994 – 1997, Georgetown University Law School; J.D., 1997

1986 – 1991, Michigan State University; B.S.E.E., 1991

Summer 1987, Oakland Community College (summer class); no degree

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.

1998 – present
Finnegan, Henderson, Farabow, Garrett and Dunner, L.L.P.
901 New York Avenue, NW
Washington, D.C. 20001
Partner (2006 – present)
Associate (1998 – 2005)

2008 – present
George Mason University Law School
3301 Fairfax Drive
Arlington, Virginia 22201
Adjunct Professor

2004 – 2008
Howard University School of Law
2900 Van Ness Street, NW
Washington, D.C. 20008
Adjunct Professor

1997 – 1998
United States Court of Appeals for the Federal Circuit
717 Madison Place, NW
Washington, D.C. 20005
Law Clerk to Honorable Alvin A. Schall

1991 – 1997
United States Patent and Trademark Office
600 Dulany Street
Alexandria, Virginia 22314
Patent Examiner

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 was not required to register for selective service.

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.

Recognized as a Washington, D.C. “Super Lawyer” in Intellectual Property Litigation, Super Lawyers Magazine (2013)

Committee Individual Leadership Award (CILA) from the Federal Circuit Bar

Association for contributions to the Rules Committee (2012)

Leon Robin Patent Award, gold medal for best work in courses in the field of patent law, Georgetown University Law School (1997)

Society of Women Engineers, scholarship recipient, Michigan State University (1987 – 1988)

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 (1998 – present)

Section of Intellectual Property Law

American Intellectual Property Law Association (1995 – present)

Amicus Committee

Hispanic National Bar Association (May 2014 – present)

HNBA/Microsoft Intellectual Property Law Institute

Federal Circuit Bar Association (1998 – present)

Vice-Chair, Rules Committee (2012 – 2013)

Co-Chair, Rules Committee (2014)

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.

District of Columbia, 2001

Virginia, 1997

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.

Supreme Court of the United States, 2002

United States Court of Appeals for the Federal Circuit, 1998

United States Court of Appeals for the Fourth Circuit, 1997

Registered Patent Attorney, United States Patent and Trademark Office, 1997

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.

Chesterbrook Elementary School PTA (2012 – present)

Edward Coke Appellate Inn of Court (2001 – 2003)

Giles Rich American Inn of Court (1995 – 2001)

Girl Scouts of the United States of America (2010 – present)
Troop Leader

Highlands Swim and Tennis Club (2005 – present)

- 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.

To the best of my knowledge, none of the organizations listed above currently discriminated 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 Daniel C. Cooley, J. Derek McCorquindale, and Jason L. Romrell, “Navigating PTAB Appeals Before the Federal Circuit,” IP Litigator (May/June 2014). Copy supplied.

With R. Jason Fowler, Chapters 4, 9, and 14 in “Federal Circuit Case Studies

2012 – 2014,” for use at Patent Resources Group, Advanced Courses Conference (Apr. 2014). Copy supplied.

With R. Jason Fowler, Chapters 4, 9, and 14 in “Federal Circuit Case Studies 2011 – 2013,” for use at Patent Resources Group, Advanced Courses Conference (Oct. 2013). Copy supplied.

With R. Jason Fowler, Chapters 4, 9, and 14 in “Federal Circuit Case Studies 2011 – 2013,” for use at Patent Resources Group, Advanced Courses Conference (Apr. 2013). Copy supplied.

“‘Commercially Available’ Vacuum Sensor Satisfies Structural Disclosure Requirements for Means-Plus-Function Limitations,” Last Month at the Federal Circuit, Finnegan, Henderson, Farabow, Garrett and Dunner (June 2001). Copy supplied.

“Failure to Renew JMOL Motion ‘Convolutates’ Appeal,” Last Month at the Federal Circuit, Finnegan, Henderson, Farabow, Garrett and Dunner (July 2000). Copy supplied.

“Markman Did Not Disqualify Inventor as Witness on Claim Scope,” Last Month at the Federal Circuit, Finnegan, Henderson, Farabow, Garrett and Dunner (February 1999). Copy supplied.

With Thomas L. Stoll, “Means for Functioning in a Vacuum,” 76 J. Pat. and Trademark Off. Soc’y 239 (1994). 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.

I signed a December 2002 letter in support of the nomination of John Roberts to the United States Court of Appeals for the D.C. Circuit. Copy supplied.

- 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.

July 31, 2014: Panel Member, "Recent and Upcoming Supreme Court Cases Addressing Indefiniteness and Appellate Deference," Finnegan, Henderson, Farabow, Garrett and Dunner, L.L.P., Washington, D.C. Video available at: <http://www.finnegan.com/recentandupcomingsupremecourtcasesaddressingindefinitenessandappellatedeferencejuly312014/>.

July 23, 2014: Panel Moderator, "Strategic Use of Covered Business Method and Inter Partes Review," World Congress Patents for Financial Services Summit, New York, New York. PowerPoint and notes supplied.

April 24, 2014: Panel Participant, "PTAB AIA Trial Roundtables," United States Patent and Trademark Office, Auburn Hills, Michigan. The panel was on the use of inter partes review and covered business method patent review, and I talked about best practices for trials before the Patent Trial and Appeal Board (PTAB) from a practitioner's point of view. I have no notes, transcripts, or recordings. The address of the United States Patent and Trademark Office is 401 Dulany Street, Alexandria, Virginia 22314.

April 3-5, 2014: Co-Lecturer, "Federal Circuit Law (2012 – 2014)," Patent Resources Group, Bonita Springs, Florida. PowerPoints supplied.

March 21, 2014: Panel Participant, "Managing Non-Practicing Entity (NPE) Patent Litigation for your Corporation," Hispanic National Bar Association (HBNA), Orlando, Florida. PowerPoint supplied.

October 30, 2013: Panel Participant, "Obviousness: Objective Evidence Redux," Intellectual Property Organization (IPO), Webinar. The presentation was on recent obviousness cases in patent law, and my role was to present a case summary of *Plantronics, Inc. v. Aliph, Inc.*, 724 F.3d 1343 (Fed. Cir. 2013). I have no notes, transcripts, or recordings. The address of the Intellectual Property Owners Association is 1501 M Street, NW, Washington, D.C. 20005.

October 16-18, 2013: Co-Lecturer, "Federal Circuit Law (2011 – 2013)," Patent Resources Group, Huntington Beach, California. PowerPoints supplied.

October 5, 2013: Co-presenter, “Divided Infringement in Patent Cases,” Virginia State Bar IP Section, Williamsburg, Virginia. The presentation was on joint infringement, and I presented on Federal Circuit cases involving joint infringement. I have no notes, transcripts, or recordings. The address of the Virginia State Bar is 1111 East Main Street, Richmond, Virginia 23219.

April 26, 2013: Panel Member, “Patent Portfolio Monetization: Best Practices and Revenue Generating Strategies,” Finnegan, Henderson, Farabow, Garrett and Dunner, L.L.P., Reston, Virginia. PowerPoint supplied.

April 11-13, 2013: Co-Lecturer, “Federal Circuit Law (2011 – 2013),” Patent Resources Group, Orlando, Florida. PowerPoints supplied.

April 4, 2013: Panel Member, “New Infringement Caselaw – Staying Ahead of the Curve,” ABA Intellectual Property Law Section, Arlington, Virginia. The panel was on recent infringement case law and my role was to present case summaries of *Akamai Technologies, Inc. v. Limelight Networks, Inc.*, 692 F.3d 1301 (Fed. Cir. 2012) (en banc) and *Centillion Data Systems v. Quest Communications*, 631 F.3d 1279 (Fed. Cir. 2011). I have no notes, transcripts, or recordings. The address of the American Bar Association is 321 North Clark Street, Chicago, Illinois 60654.

February 4, 2013: Panel Member, “Joint Infringement Post-Akamai/McKesson,” Practising Law Institute, New York, New York. The panel was on joint infringement and I presented on several Federal Circuit cases involving joint infringement. I have no notes, transcripts, or recordings. The address of the Practising Law Institute is 1177 Avenue of the Americas, New York, New York 10036.

January 22, 2013: Panel Participant, “Prior Art, Obviousness, and the Doctrine of Equivalents,” Finnegan, Henderson, Farabow, Garrett and Dunner, L.L.P., Washington, D.C. Video available at: <http://www.finnegan.com/priorartobviousnessandthedoctrineofequivalentsjanuary222013/>.

November 10, 2012: Participant, mock argument before a panel of Federal Circuit judges, Institute of Continuing Legal Education in Georgia, Cancun, Mexico. I represented one side in a hypothetical case involving declaratory judgment jurisdiction. I have no notes, transcripts, or recordings. The address of the Institute of Continuing Legal Education in Georgia is 248 Prince Avenue, Athens, Georgia 30601.

April 19, 2012: Panel Participant, “Federal Circuit Rules on Broadening Resissues, Joint Inventorship, and Intervening Rights,” Finnegan, Henderson, Farabow, Garrett and Dunner, L.L.P., Washington, D.C. Video available at:

<http://www.finnegan.com/federalcircuitrulesonbroadeningreissuesjointinventorshipandinterveningrightsapril192012/>.

March 22, 2012: Panel Moderator, "Part 2: Nuts and Bolts of Federal Circuit Practice Webinar," Federal Circuit Bar Association, Washington, D.C. The presentation was on the Federal Circuit's procedures and rules of practice. I have no notes, transcripts, or recordings. The address of the Federal Circuit Bar Association is 1620 I Street, NW, Washington, D.C. 20006.

March 14, 2012: presenter, "The Divide on Divided Infringement," New Jersey Intellectual Property Law Association, Iselin, New Jersey. PowerPoint supplied.

February 27, 2012: Panel Participant, "Career Paths," George Mason School of Law Intellectual Property Law Society, Arlington, Virginia. I talked about how to get a job and be successful at a law firm. I have no notes, transcripts, or recordings. The address of the George Mason School of Law Intellectual Property Law Society is 3301 North Fairfax Drive, Arlington, Virginia 22201.

February 15, 2012: Panel Participant, "The Future of Joint Infringement in the U.S.: A Review of Akamai and McKesson and Their Potential Impact on Claim Drafting and Enforcement Strategies," Finnegan, Henderson, Farabow, Garrett and Dunner, L.L.P., Washington, D.C. Video available at: <http://www.finnegan.com/webinarthefutureofjointinfringementfebruary152012/>.

January 19, 2012: Panel Moderator, "Nuts and Bolts of Federal Circuit Practice Webinar," Federal Circuit Bar Association, Washington, D.C. The panel was on the Federal Circuit's procedures and rules of practice. I have no notes, transcripts, or recordings. The address of the Federal Circuit Bar Association is 1620 I Street, NW, Washington, D.C. 20006.

November 2011: Participant, mock argument before a panel of Federal Circuit judges, Institute of Continuing Legal Education in Georgia, Cabo San Lucas, Mexico. I represented one side in a hypothetical case involving patent eligible subject matter and inequitable conduct. I have no notes, transcripts, or recordings. The address of the Institute of Continuing Legal Education in Georgia is 248 Prince Avenue, Athens, Georgia 30601.

November 3, 2011: Panel Participant, "The Divide on Joint Infringement," Biotechnology Industry Organization (BIO), New York, New York. I presented on several Federal Circuit cases involving joint infringement. I have no notes, transcripts, or recordings, but press coverage is supplied. The address of BIO is 1201 Maryland Avenue, SW, Suite 900, Washington, D.C. 20024.

June 3, 2009: Panel Participant, "Will There Be Any Software Patents to Litigate after Bilski, Comiskey, and Muniacation?," BNA LegalEDGE, Washington, D.C.. PowerPoint supplied.

April 19, 2007: Moot Court Judge, "34th Annual Giles Sutherland Rich Memorial Moot Court Competition," American Intellectual Property Law Association, Washington, D.C.. I have no notes, transcripts, or recordings. The address of the American Intellectual Property Law Association is 241 18th Street South, Suite 700, Arlington, Virginia 22202.

November 9-10, 2005: Co-Lecturer, "U.S. Patent Litigation for European Practitioners," IBC Global Conferences, London, United Kingdom. The course was a hands-on interactive course on discovery, motions, claim construction, and trials in district court, as well as appeals to the Federal Circuit. I have no notes, transcripts, or recordings. The address of IBC Global Conferences is 10 Fetter Lane, London EC4A 1BR United Kingdom.

April 14, 2005: Moot Court Judge, "32nd Annual Giles Sutherland Rich Memorial Moot Court Competition," American Intellectual Property Law Association, Washington, D.C. I have no notes, transcripts, or recordings. The address of the American Intellectual Property Law Association is 241 18th Street South, Suite 700, Arlington, Virginia 22202.

April 15, 2004: Moot Court Judge, "31st Annual Giles Sutherland Rich Memorial Moot Court Competition," American Intellectual Property Law Association, Washington, D.C. I have no notes, transcripts, or recordings. The address of the American Intellectual Property Law Association is 241 18th Street, Suite 700, Arlington, Virginia 22202.

November 6-7, 2003: Co-Lecturer, "U.S. Patent Litigation for European Practitioners," sponsored by IBC Global Conferences, London, United Kingdom. The course was a hands-on interactive course on discovery, motions, claim construction, and trials in district court, as well as appeals to the Federal Circuit. I have no notes, transcripts, or recordings. The address of IBC Global Conferences is 10 Fetter Lane, London EC4A 1BR United Kingdom.

- 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.

Kat Greene, *Federal Circuit Says Consumer Group Can't Fight Stem Cell Patent*, Law360, June 4, 2014. Copy supplied.

Ryan Davis, *Federal Circuit Makes Induced Infringement Easier to Prove*, Law360, August 31, 2012. Copy supplied.

Sarah-Jane Adams, *Breaking Through the Glass Ceiling*, Intellectual Asset Management, October/November 2008. 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 any 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 any 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 any public offices. I have not had any unsuccessful candidacies for elective office or unsuccessful nominations for appointed 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.

I have not held any memberships or offices or rendered any services to any political party or election committee. I have never held a position or played a role in a political campaign.

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;

From 1997 to 1998, I served as a law clerk to the Honorable Alvin A. Schall, Circuit Judge of the United States Court of Appeals for the Federal Circuit.

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

I have never 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.

1998 – present

Finnegan, Henderson, Farabow, Garrett and Dunner, L.L.P.

901 New York Avenue, NW

Washington, D.C. 20001

Partner (2005 – present)

Associate (1998 – 2005)

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 never 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 throughout my career has focused predominantly on patent law and specifically on patent litigation. As an associate at Finnegan, I assisted partners in representing both plaintiffs and defendants in lawsuits in various federal district courts, in appeals before the Federal Circuit, and in several arbitration proceedings. Although the majority of my practice has been devoted to litigation, I also drafted and filed a dozen or so patent

applications in the United States Patent and Trademark Office, represented clients in post-grant proceedings (e.g., reissue, reexamination, and interference proceedings) before the Patent Trial and Appeals Board (formerly, the Board of Patent Appeals and Interferences) at the United States Patent and Trademark Office, and assisted clients with due diligence projects, patent opinions, and in drafting/negotiating intellectual property license agreements.

After I became a partner at Finnegan, my practice predominantly focused on district court and appellate litigation. I have served as lead counsel in over a dozen district court litigations and appeals. I also served as lead counsel in inter partes review proceedings, reexaminations, and an interference before the Patent Trial and Appeals Board (formerly, Board of Patent Appeals and Interferences) at the United States Patent and Trademark Office.

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

I have worked with an assortment of clients throughout my legal career. Because I have a technical background in electrical engineering, a significant amount of my work has been for clients in that field. For example, I have worked with companies specializing in consumer electronics, computers, and software, including Sony Computer Entertainment America, Inc., Autodesk, Inc., and General Instrument Corp. I also have worked with numerous companies specializing in medical devices, such as Cardiac Pacemakers, Inc., Guidant Corporation, Boston Scientific Corporation, Abbott Laboratories, Cochlear Corporation, and Zimmer, Inc. In addition to these two areas, I have worked with clients in a variety of other technical fields.

- 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.

The majority of my practice has involved litigation, either in the Federal Circuit or in district courts. My litigation practice in the past two years has primarily focused on appellate litigation. Prior to that, my practice reflected a 50-50 mix of appellate and district court litigation. I have appeared in district court occasionally, including claim construction hearings, summary judgment hearings, and trial. I have presented argument in nine cases in the Federal Circuit. With the exception of two pro bono criminal proceedings, one pending in the Superior Court of the District of Columbia and one in the D.C. Court of Appeals, the courts in which I have appeared have all been federal district and appellate courts.

A small percentage of my work has involved non-litigation matters. My non-

litigation work as an associate included opinion work, due diligence work, patent prosecution, post-grant proceedings at the United States Patent and Trademark Office, and license drafting/negotiations. My non-litigation work as a partner included post-grant proceedings at the United States Patent and Trademark Office, opinion work, and license drafting/negotiations. I have argued before the Patent Trial and Appeals Board (formerly the Board of Patent Appeals and Interferences) at the U.S. Patent and Trademark Office five times.

- i. Indicate the percentage of your practice in:
 - 1. federal courts: >89%
 - 2. state courts of record: <1%
 - 3. other courts: 0%
 - 4. administrative agencies: 10%

- ii. Indicate the percentage of your practice in:
 - 1. civil proceedings: >99%
 - 2. criminal proceedings: <1%

- 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 three cases to verdict, judgment, or final decision in federal district courts. I was associate counsel in all cases.

- i. What percentage of these trials were:
 - 1. jury: 66%
 - 2. non-jury: 33%

- 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 was primarily responsible for preparing a brief opposing certiorari and a supplemental brief in *Limelight Networks, Inc. v. Akamai Technologies, Inc.*, No. 12-786 (S. Ct. June 2, 2014). Brief in Opposition available at 2013 WL 1366420; Supplemental Brief available at 2013 WL 7231551. I also prepared a conditional cross-petition and reply brief in support thereof in *Akamai Technologies, Inc. v. Limelight Networks, Inc.*, No. 12-960 (petition filed Feb. 1, 2013). Conditional Cross-Petition for a Writ of Certiorari available at 2013 WL 417691; Reply to Brief in Opposition available at 2013 WL 2179306. After the Supreme Court granted certiorari in *Limelight Networks, Inc. v. Akamai Technologies, Inc.*, No. 12-786, on January 10, 2014, I remained part of the litigation team and provided

review and comment on Akamai's brief. Brief for Respondents available at 2014 WL 1260422.

I also provided review and comment on a brief opposing certiorari and a brief on the merits in *Microsoft Corp. v. i4i Limited Partnership*, No. 10-290 (S. Ct. 2010). Brief in Opposition available at 2010 WL 4314336; Brief for Respondents available at 2011 WL 915094.

I provided review and comment on a petition for writ of certiorari in *Cardiac Pacemakers, Inc. v. St. Jude Medical, Inc.*, No. 09-596 (S. Ct. 2009). Petition for Writ of Certiorari available at 2009 WL 3865431.

I was principally responsible for preparing a brief opposing certiorari in *St. Jude Medical, Inc. v. Cardiac Pacemakers, Inc.*, No. 04-1171 (S. Ct. 2005). Respondents' Brief in Opposition available at 2005 WL 762463.

Finally, I prepared a brief opposing certiorari in *Gaus v. Conair Corp.*, No. 04-196 (S. Ct. 2004). Respondents' Brief in Opposition to Gaus's Petition for Writ of Certiorari available at 2004 WL 2070858.

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) *DataTreasury v. Fid. Nat'l Info. Servs., Inc.*, No. 13-432 (E.D. Tex.); *In re Fid. Nat'l Info. Servs., Inc.*, No. 2014-138 (Fed. Cir. 2014).

This case addressed the standards and procedure for a district court's determination of whether to stay district court litigation pending post-grant review of covered business method ("CBM") patents by the Patent Trial and Appeal Board ("PTAB") under the America Invents Act ("AIA"). In this case, DataTreasury sued 128 parties for patent infringement. Fidelity National Information Services ("FIS") filed CBM petitions asserting that DataTreasury's patents-in-suit were invalid and also filed a motion to stay the district court litigation pending resolution of the CBM proceedings. The district court did not act on the motion to stay and instead entered a scheduling order setting trial for a

year later. FIS retained Finnegan for the CBMs and to seek a stay under the AIA. I served as lead counsel for FIS in preparing a petition for writ of mandamus asking the Federal Circuit to either grant FIS's motion to stay pending the CBM or order the district court to rule on FIS's motion. All 128 defendants joined the petition. Although the Federal Circuit denied the petition, it directed the district court to rule on petitioners' motions to stay "promptly." On August 15, 2014, the district court granted FIS's stay motion pending the PTAB's ongoing review of the CBM proceedings.

Dates of Representation: 2014 – present

Presiding Judge: U.S. District Judge Rodney Gilstrap
Panel: U.S. Circuit Judges Sharon Prost, Evan Wallach, and Raymond Chen

Co-Counsel:
Jay Utley
Baker and McKenzie
2300 Trammell Crow Center
2001 Ross Avenue
Dallas, Texas 75201
214-978-3036

Counsel for DataTreasury LLP:
Christian Hurt
Nix, Patterson and Roach, LLP
205 Linda Drive
Daingerfield, Texas 75638
903-645-7333

- 2) *Akamai Techs., Inc. v. Limelight Networks, Inc.*, 692 F.3d 1301 (Fed. Cir. 2012) (en banc), *rev'd*, 134 S. Ct. 2111 (June 2, 2014).

This case addressed the issue of whether, and under what circumstances, a party can be liable for infringement of a method claim when that party performs some steps of the claim and another performs the remaining steps. Akamai had retained our firm to represent it on appeal following the district court's entry of judgment of no infringement. After a three-judge panel issued its decision affirming the district court, Akamai petitioned for en banc consideration by the full court. The Federal Circuit, sitting en banc, held that a party could be liable under 35 U.S.C. § 271(b) for inducing another party to perform the remaining steps of a claim even if no one party were liable for directly infringing the claim. The Supreme Court reversed and remanded to the Federal Circuit, where the case is currently pending for consideration of infringement under 35 U.S.C. § 271(a). I played a leading role in drafting the briefs before the Federal Circuit panel, the request for rehearing en banc, and the en banc briefs, as well as assisting in the briefing before the Supreme Court.

Dates of Representation: 2009 – present

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- 3) *Consumer Watchdog v. Wis. Alumni Research Found.*, No. 2013-1377, 753 F.3d 1258 (Fed. Cir. 2014).

Consumer Watchdog appealed from a ruling from the Patent Trial and Appeal Board at the U.S. Patent and Trademark Office that Wisconsin Alumni Research Foundation's ("WARF's") patent was patentable. WARF retained me as lead counsel in this appeal, and I argued on its behalf. The appellate court raised the issue of whether Consumer Watchdog had standing to appeal the Board's ruling to an Article III court sua sponte, three weeks prior to oral argument. After argument, the court invited amicus briefs from the U.S. Government and the U.S. Patent and Trademark Office and scheduled a second argument to hear the views of the parties and the U.S. Government. The Federal Circuit concluded that Consumer Watchdog, a consumer-advocacy organization, had not identified any particularized, concrete interest in the patentability of WARF's patent as, for example, a competitor, licensee, or researcher. Because Consumer Watchdog did not identify any injury in fact flowing from the Board's decision, the Court dismissed Consumer Watchdog's appeal for lack of standing and WARF prevailed in the dispute.

Dates of Representation: 2012 – 2014

Panel: U.S. Circuit Judges Randall Rader, Sharon Prost, Todd Hughes

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United States and United States Patent and Trademark Office (amicus curiae):
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4) *Plantronics, Inc. v. Aliph, Inc.*, 724 F.3d 1343 (Fed. Cir. 2013).

This case addressed issues of patent claim construction and obviousness, including a district court's proper evaluation of "secondary considerations" of non-obviousness. Plantronics, Inc. alleged that Aliph, Inc. infringed its patent and Aliph counterclaimed that Plantronics' patent was invalid and not infringed. Plantronics retained me on appeal after the district court had entered summary judgment of non-infringement and invalidity adverse to Plantronics. I served as lead counsel in briefing and arguing the case on appeal. The Federal Circuit reversed the district court and remanded for a trial on infringement and validity. The case settled on remand.

Dates of Representation: 2011 – 2013

Panel: U.S. Circuit Judges Randall Rader, Kathleen O'Malley, Evan Wallach

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- 5) *Markem-Image Corp. v. Zipher*, Nos. 07-06 and 10-112 (D.N.H. 2007), *rev'd*, 657 F.3d 1293 (Fed. Cir. 2011).

This case addressed issues of patent infringement, claim construction, and validity. Markem-Image Corporation alleged that it did not infringe Zipher's patent and that in any case Zipher's patent was invalid. I was lead counsel for Zipher during the district court and appellate proceedings. In the district court, I argued claim construction issues, summary judgment, and discovery. The district court granted summary judgment of noninfringement against Zipher. On appeal, I was principally responsible for Zipher's briefing, and I argued for Zipher. The Federal Circuit reversed the district court's claim construction, adopted Zipher's claim construction, and remanded to the district court. The case settled in 2012.

Dates of Representation: 2008 – 2012

Presiding Judge: U.S. District Judge Paul Barbadoro

Panel: U.S. Circuit Judges Pauline Newman, Raymond Clevenger, Richard Linn

Co-counsel:

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- 6) *Saffran v. Boston Scientific Corp.*, No. 09-256 (E.D. Tex. 2011), *appeal dismissed*, 331 F. App'x 728 (Fed. Cir. 2009); *Saffran v. Abbott Labs.*, No. 2:09-cv-256-TJW (E.D. Tex. 2011)

These are two cases, but they involve the same patent owner and the same patent. Dr. Saffran first sued Boston Scientific in the Eastern District of Texas, asserting that Boston Scientific's drug-eluting stents infringed his patent. A jury awarded Dr. Saffran over \$430 million in damages and Boston Scientific retained my firm on appeal. I was principally responsible for drafting the appeal briefs. The case settled following oral argument.

Dr. Saffran later sued Johnson and Johnson, another manufacturer of drug-eluting stents, and subsequently sued Abbott Labs in a third lawsuit. Abbott retained my firm for its district court litigation in the Eastern District of Texas. I was principally involved in developing our non-infringement and invalidity positions for trial. I also advised Abbott regarding the *Saffran v. Johnson and Johnson* trial, at which the jury awarded Dr. Saffran over \$480 million in damages. Johnson and Johnson appealed and I was principally responsible for preparing Abbott's amicus brief in support of Johnson and Johnson. On appeal, the Federal Circuit held that the patent claims, as properly interpreted, did not cover drug-eluting stents with large holes between the stent struts like the accused stents. In light of the Federal Circuit's decision, the district court dismissed Dr. Saffran's case against Abbott.

Dates of Representation: 2009 – 2012

Presiding Judge: U.S. District Judge T. John Ward (both cases)

Panel: Circuit Judges Alan Lourie, Kimberly Moore, and Kathleen O'Malley

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7) *Powell v. The Home Depot U.S.A., Inc.*, 663 F.3d 1221 (Fed. Cir. 2011).

This case involved issues of claim construction, validity, willful infringement, and damages. Mr. Powell had been a 20-year independent contractor with The Home Depot, servicing The Home Depot's in-store saws. The Home Depot alerted Powell of a safety issue with the saws. Powell developed a solution, a "Safe Hands" device, to protect Home Depot's employees. After a dispute about pricing, The Home Depot showed Safe Hands to another supplier and asked them to copy it. This device was installed in more than 2,000 Home Depot stores nationwide. In 2007, Powell sued The Home Depot for patent infringement. After a jury found in Powell's favor, The Home Depot appealed. Powell retained my firm on appeal, and I was principally responsible for drafting Powell's appeal brief. The Federal Circuit affirmed the judgment, finding that the district court had not erred in its claim construction and that substantial evidence supported the jury verdict.

Dates of Representation: 2009 – 2012

Panel: U.S. Circuit Judges Richard Linn, Timothy Dyk, Sharon Prost

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- 8) *In re: Katz Interactive Call Processing Patent Litig.*, 639 F.3d 1303 (Fed. Cir. 2011).

This case involved the question of whether a district court's decision to limit the number of asserted patent claims violates the patent owner's due process rights, as well as issues of indefiniteness, written description, and obviousness. I served as lead counsel for Federal Express Corp. ("FedEx") on appeal. Katz initially filed 25 separate actions asserting a total of 1,975 claims from 31 patents against 165 defendants. Defendants asked the district court to limit the number of asserted claims. After initially determining that many claims were duplicative, the district court limited the maximum number of assertable claims. The court added a proviso permitting Katz to add new claims if they "raise[d] issues of infringement/validity that [were] not duplicative" of previously selected claims. Instead of selecting additional claims, Katz moved the court to sever and stay the unselected claims on the ground that the district court's order violated its due process rights. The district court denied Katz's motion. On appeal, the Federal Circuit affirmed the denial of Katz's motion to stay and sever and approved the district court's claim selection procedure. The court also affirmed in part and vacated in part the district court's ruling that certain claims were invalid for indefiniteness, affirmed in part and vacated in part the district court's ruling that certain claims were invalid under the written description, and affirmed the district court's ruling that certain claims were invalid as being obvious. The case is currently pending on remand.

Dates of Representation: 2009 – 2011

Panel: U.S. Circuit Judges Pauline Newman, Alan Lourie, William Bryson

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- 9) *Medtronic, Inc. v. Guidant Corp.*, No. 03-848 (D. Del. 2004), *aff'd*, 465 F.3d 1360 (Fed. Cir. 2006).

This case involved the doctrine of reissue recapture and the broadening of claims. Medtronic, Inc. alleged that the patent-in-suit was invalid under the doctrine of reissue recapture. My firm represented Guidant, the exclusive licensee of the patent-in-suit, both at a bench trial and on appeal. I was principally involved in developing our legal arguments, as well as preparing key witnesses. Following the bench trial, the district court held that Guidant's patents were not invalid for reissue recapture. The Federal Circuit affirmed.

Dates of Representation: 2003 – 2006

Presiding Judge: U.S. District Judge Sue Robinson

Panel: U.S. Circuit Judges Paul Michel, Alvin Schall, Timothy Dyk

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- 10) *Baker Hughes, Inc., v. Davis-Lynch, Inc.*, No. 97-2905 (S.D. Tex. 2000), *aff'd in part, rev'd, in part*, 31 F. App'x 650 (Fed. Cir. 2002).

This case addressed issues of patent validity, including those related to an on-sale bar and obviousness. Baker Hughes, Inc. (“Baker”), alleged that Davis-Lynch, Inc. (“Davis-Lynch”) infringed its patent. Davis-Lynch counterclaimed that it did not infringe and that in any case the patent was invalid. Davis-Lynch retained my firm on appeal from the district court’s entry of summary judgment against it on both infringement and validity. I was responsible for drafting the appeal briefs. After the Federal Circuit reversed and remanded on validity, we continued to represent Davis-Lynch through the jury trial. I was responsible for developing our positions for trial, preparing witnesses, examining witnesses at trial, arguing jury instructions, and arguing motions in limine. Following the trial, the jury entered a verdict finding in favor of Baker that its patent was not invalid and the case settled.

Dates of Representation: 2001 – 2003

Presiding Judge: U.S. District Judge Melinda Harmon

Panel: U.S. Circuit Judges Raymond Clevenger, Randall Rader, William Bryson

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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.)

My law practice has primarily involved litigation. One of the more significant cases that I worked on early in my legal career was an arbitration for General Instrument. The opposing party was Starsight Telecast. We tried the case before a three-member panel of arbitrators. The trial lasted four weeks and the issues at trial included trade secret misappropriation, patent infringement, and breach of contract.

I have worked on appeals throughout my legal career. One significant appeal that I worked on was *Harris Corp. v. Fed. Express Corp.*, No. 2012-1094 (Fed. Cir. 2013). I served as lead counsel for FedEx in this appeal from the United States District Court for the Middle District of Florida. The issues on appeal included claim construction, validity, and willful infringement. The Federal Circuit affirmed the denial of FedEx's invalidity defense, but reversed the district court's claim construction and remanded for a new determination of infringement under the proper claim construction.

I also have worked on numerous proceedings before the United States Patent Trial and Appeal Board (PTAB, formerly the Board of Patent Appeals and Interferences). One significant case that I worked on involved an inter partes reexamination. I was lead counsel for Boston Scientific Corporation before the PTAB, which held that Boston Scientific's patent was not invalid in view of the asserted prior art. The Federal Circuit affirmed on appeal.

I have not performed any lobbying activities.

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.

2008 – 2013: Seminar on “Federal Circuit Practice and Procedure,” George Mason University School of Law. This course focused on the Federal Circuit’s jurisdiction, rules of practice, brief writing, and oral advocacy. Spring 2007 and Spring 2012 syllabi supplied.

2004 – 2008: Seminar on “Patent Law and Public Policy,” Howard University School of Law. This course focused on basic principles of patent law with a focus on public policy. Spring 2004 syllabus supplied.

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.

I have a Finnegan, Henderson, Farabow, Garrett and Dunner, LLP, capital account valued at approximately \$260,000, which would be paid out to me in twelve equal monthly installments, beginning the last day of the month in which my partnership is terminated.

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.

If confirmed, I do not have any plans, commitments, or agreements to pursue outside 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 the 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 the 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.

If confirmed, I will recuse in any litigation where I have ever played a role. Cases in which my current law firm, Finnegan, Henderson, Farabow, Garrett and Dunner, L.L.P., represented a party or appeared would present a potential conflict. To avoid such a conflict, I would recuse myself for a period of time from cases in which Finnegan represented a party or appeared. My husband is a lawyer at The Boeing Company and I also would recuse myself from cases involving his employer.

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

If confirmed, I would handle all matters involving actual or potential conflicts of interest through careful application of the Code of Conduct for United States Judges, as well as other relevant canons and statutory provisions. I also would consult my judicial colleagues on these issues where appropriate.

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 represented pro bono clients in two criminal cases, one in trial court and one on appeal. I also have represented pro bono clients in veterans' appeals before the Federal Circuit. Finally, I have spent many hours helping attorneys at my firm to clarify their appellate arguments by actively participating in moot courts held in preparation for oral arguments in pro bono veterans' appeals, mostly before the Federal Circuit, but on one occasion before the Supreme Court of the United States.

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.

I have been in contact with officials from the White House Counsel's Office since July 2014, when I was asked whether I was interested in the possibility of serving

on the Federal Circuit. Since August 13, 2014, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On September 15, 2014, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C. On November 12, 2014, the President submitted my nomination to the Senate.

- 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.

AFFIDAVIT

I, Kara Fernandez Stoll, do swear
that the information provided in this statement is, to the best
of my knowledge, true and accurate.

11/14/2014

(DATE)

Kara Fernandez Stoll

(NAME)



Catherine G DuBois
(NOTARY), District of Columbia

My Commission expires November 30, 2014