


Esha Bandyopadhyay

Principal

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Overview

About Esha

Esha Bandyopadhyay, a principal in the Silicon Valley office of Fish & Richardson P.C., has been practicing intellectual property and technology-related commercial litigation and counseling in the Bay Area for close to two decades. She has successfully tried and managed matters through all phases of litigation in venues across the nation, including the Northern District of California, the Eastern District of Texas, the District of Delaware, and the U.S. International Trade Commission, attaining verdicts of patent invalidity and recovering millions in damages awards and settlements.

Ms. Bandyopadhyay brings to any team a keen sense of trial strategy and jury presentation. She has successfully represented companies ranging in size from Fortune 100 to emerging startups, as well as highly innovative inventors. Most notably, in *Better Mouse Company, LLC v. SteelSeries ApS et al.*, she successfully led a team of nine attorneys to a defense-side verdict in a case brought by a non-practicing entity in the Eastern District of Texas. The jury deliberated for less than two hours before delivering a verdict of no infringement. Her strategy for reaching this outcome was applauded in *Forbes* magazine in an article entitled *Videogame Mouse Firm Offers Lesson In How To Beat A Texas Patent Troll*.

Her patent litigation engagements have involved a diverse range of technologies including medical devices such as spinal fusion and atrial fibrillation devices and methods, computer software, computer hardware (including laptops, handheld devices, and computer mice), and consumer products ranging from appliances to automotive touch-up pens. She also has significant experience with trade secret disputes in high-tech industries, and has litigated numerous copyright, trademark, internet, and false advertising matters. For the past three years, she has been named a Best Lawyer in the field of trade secrets. In October 2020, Esha was named a “Top Trade Secrets Lawyer” by the *Daily Journal*

. Starting in Spring 2021, she will teach a course on trade secrets at University of California, Davis School of Law.

Ms. Bandyopadhyay is heavily involved with the Silicon Valley IP Lawyers Association, the Women's IP Lawyers Association, the National Asian Pacific American Bar Association, the South Asian Bar Association, and ChIPs. She sits on the board of directors of World Arts West, serves on the host committee of the St. Francis Foundation, and is the social media chair for the Golden Gate Mothers Group. She was recently named a "Woman of Achievement" by Legal Momentum (the Women's Legal Defense and Education Fund) and a "Woman of Influence" by the *Silicon Valley Business Journal*.

Ms. Bandyopadhyay received her B.A. in economics, *summa cum laude*, with highest departmental distinction, from the University of California, San Diego, in 1996. At the age of 18, she was the youngest graduate in the history of the university. She received her J.D., at the age of 22, from the University of California, Berkeley, School of Law in 2000. She previously worked as an economic analyst during her year between college and law school.

Focus Areas

Services

- Litigation
- Appellate
- Commercial Litigation
- ITC Litigation
- Patent Litigation
- Trade Secret Litigation

Industries

- Consumer Products
- Electrical and Computer Technology
- Life Sciences
- Medical Devices

Education

J.D., University of California, Berkeley School of Law (2000)

B.A. *summa cum laude*, Economics, University of California, San Diego (1996)

Insights

Publications & Speaking Engagements

Esha is frequently invited to serve as a guest speaker and lecturer at Boalt Hall (University of California, Berkeley School of Law) and frequently writes on issues pertaining to patent litigation, trade secret litigation, and litigation avoidance. Esha is also a regular contributor to Fish's Litigation Blog and Fish's IP Law Essentials. Starting in Spring 2021, she will be a Visiting Lecturer at University of California, Davis School of Law.

Recent speaking engagements and publications include:

"DTSA's Ex Parte Seizures of Property: A Drastic Trade Secret Remedy," co-authored with Meaghan Luster, *Fish's IP Law Essentials* (2021).

"Preserving Trade Secrets at District Court Hearings and Trials," co-authored with Kayleigh McGlynn, *Fish Litigation Blog* (March 11, 2021).

"ITC Litigation: Introduction to Trade Secret Protection at the ITC," co-authored with Monty Fusco and Elizabeth Connors, *Fish's IP Law Essentials* (2021).

"Recent Developments in Trade Secrets Damages," co-authored with Tommy Jacks, *Fish Litigation Blog* (January 19, 2021).

"An Overview of Utility Patents in the United States," co-authored with Lance Wyatt, *Fish's IP Law Essentials* (2020).

"Trade Secrets Damages," co-speaker, *Fish Litigation Webinar* (October 27, 2020).

"Contending contentions: trade secret contentions vs. patent contentions," co-authored with Scott Flanz, *Daily Journal* (October 7, 2020).

"An Introduction to Patent Regulations" co-authored with Philip Chen, *Fish's IP Law Essentials* (2020)

“What is Patent Law?” co-authored with Philip Chen, *Fish’s IP Law Essentials* (2020).

“Trade Secret Litigation v. Patent Litigation: Similarities, Differences, and Interplay,” co-authored with Bobby Hampton, *Fish’s IP Law Essentials* (2020).

“Trade Secrets and Patents: Similarities, Differences, and Interplay,” co-authored with Bobby Hampton, *Fish’s IP Law Essentials* (2020).

“What To Know About Licensee Standing In Trade Secret Cases,” co-authored with Alana Mannige, *Law360* (2020).

“What are the Different Types of Patents?” co-authored with Lance Wyatt, *Fish’s IP Law Essentials* (2020).

“Safeguarding Secrecy: Taking “Reasonable” Measures to Protect Trade Secrets,” co-authored with Felix Eyzaguirre, *Fish’s IP Law Essentials* (2020).

“Trade Secrets: What Are They and Do They Impact Me?,” co-authored with Felix Eyzaguirre, *Fish’s IP Law Essentials* (2020).

Author, “Pin Down” Your Trade Secrets So the Court Can “Do Its Job” A Case Study,” *Fish Litigation Blog* (2020).

Moderator, “Patent Litigation: Adapting to U.S. Trends & Managing Litigation,” Global IP ConfEx (2020).

Interviewee, “Desi Advocacy: Spotlight on South Asian Women in Law,” *Ms. JD* (2020).

Author, “The DTSA *Ex Parte* Civil Seizure Remedy: Constitutional or Not?” *Intellectual Property & Technology Law Journal* (2019).

Author, “Damages for Anticipated Future Use of Trade Secrets,” *Fish Litigation Blog* (2019).

Panelist, “Women Trailblazers in Law,” APABA Silicon Valley Women in Law Annual Meeting (2019).

Author, “Using Anti-SLAPP Laws to Combat Trade Secret Claims: A Disappearing Mechanism?” *The Recorder* (2019).

Author, “Trade Secret’s Inherent Value, Part 2: Trade Secret Reasonable Royalties,” *The Recorder* (2019).

Author, “Trade Secret’s Inherent Value, Part 1: Avoided Costs and Trade Secret Damages,” *The Recorder* (2019).

Author, "Implications of 'FMI v. Argus Media Leader' on Trade Secret Law," *The Recorder* (2019).

Panelist, "A Courageous Conversation on Lawyer Well-Being," South Asian Bar Association National Conference (2019).

Presenter, "Trade Secrets Developments in 2018," Fish Webinar (2019).

Author, "The Law of Unintended Consequences at Federal Circuit," *Daily Journal* (2018).

Moderator, "Money Money Money," *Daily Journal* Trade Secret Litigation Forum (2018).

Moderator, "What Do Judges Really Want?" *Daily Journal* Trade Secret Litigation Forum (2018).

Moderator, "Alternative Careers in Law" ChIPs Next Gen Summit (2018).

Panelist, "Fulfilling your Partnership Potential: Inside and Outside the Firm" (2018).

Panelist, "Current Procedural Issues in Patent Law," Patent Law in Global Perspective Conference (2018).

Moderator, "Global Strategies for IP," Berkeley Center for Law & Technology (2017).

Recognition

Named a "Top Trade Secrets Lawyer" by the *Daily Journal* (2020).

Named a "Woman of Achievement" by Legal Momentum (the Women's Legal Defense and Education Fund) (2018).

Named a "Woman of Influence" by the *Silicon Valley Business Journal* (2018).

Named to "The Best Lawyers in America" list by *The Best Lawyers in America*© (2018-2021).

Listed by *Super Lawyers* as a "Rising Star" every year since 2007.

Memberships & Affiliations

Member, Silicon Valley IP Lawyers Association.

Member, Women's IP Lawyers Association.

Member, National Asian Pacific American Bar Association.

Member, South Asian Bar Association.

Member, ChIPs.

Board of Directors, Legal Momentum (2018-present).

Board of Directors, World Arts West (2017-present).

Host Committee Member, St. Francis Foundation (2017-present).

Social Media Chair, Golden Gate Mothers Group (2018-present).

Board Member, Guru Shradha Odissi Institute (2008-2013).

Advisory Board, Asian Law Alliance (2009-2011).