




# Nitika Gupta Fiorella

## Principal

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## Overview

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### About Nitika

Nitika Gupta Fiorella is a principal in the Delaware office of Fish & Richardson P.C. Her practice focuses on complex patent litigation, spanning a wide range of technologies. Nitika has worked on cases involving pharmaceuticals (including Hatch-Waxman litigation), oil and gas technology, software, medical devices, and polymer chemistry. She has experience in all phases of litigation, including pre-suit diligence, case management, preliminary injunctions, document collection and production, fact and expert discovery, claim construction, summary judgment and *Daubert* hearings, trial, and appeal. Nitika also has courtroom experience, including examining expert witnesses at hearings, arguing discovery and summary judgment motions, and arguing jury instructions at trial. In addition to district court litigation, Nitika has worked on post-grant proceedings, including *inter partes* review, and matters before the U.S. International Trade Commission.

Nitika rejoined the firm in 2016 after serving as a law clerk for the Honorable Kent A. Jordan of the U.S. Court of Appeals for the Third Circuit (2014-2015) and for the Honorable Chief Judge Sharon Prost of the U.S. Court of Appeals for the Federal Circuit (2015-2016). Prior to attending law school at New York University, Nitika attended the University of Delaware as a Eugene DuPont Scholar, where she obtained dual degrees in chemical engineering and political science. She is also fluent in Hindi.

## Focus Areas

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### Services

- Litigation

- Post-Grant
- Appellate
- Hatch-Waxman
- Patent Litigation

## Industries

- Chemicals
- Electrical and Computer Technology
- Energy and Petrochemical
- Internet
- Life Sciences
- Medical Devices

## Education

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J.D., New York University School of Law (2013) Articles Editor, *New York University Law Review*; Robert McKay Scholar; David Friedman Memorial Award;

B.S.C.E, Chemical Engineering, University of Delaware (2009) Eugene DuPont Memorial Distinguished Scholar Award

B.A., Political Science, University of Delaware (2009) Best Attorney in Region, Mock Trial Competition; Stanley Jacob Schechter Award

## Experience

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- *Parallel Networks Licensing, LLC v. Microsoft Corporation* (D.Del., trial and appeal to Fed. Cir.)
- Represented leading pharmaceutical company in Hatch-Waxman trial (E.D. Tex.)
- *In the Matter of Certain Sleep-Disordered Breathing Treatment Systems and Components Thereof* (Investigation No. 337-TA-879, ITC, trial)

# Insights

## Publications

- “PTAB reversals at Federal Circuit: how counsel snap rare wins,” *Managing Intellectual Property* (September 2, 2021)
- “Lessons For 2021 From Fed. Circ. Post-Grant Review Cases,” *Law360* (January 3, 2021)
- “Empowering Our Future Litigation Leaders,” *Corporate Counsel Business Journal* (November 2020)
- “Federal Circuit Faces Pressure From Four Directions in New Year,” *Bloomberg Law* (December 2020)

## Speaking Engagements

- “Post-Grant for Practitioners: Post-Grant Appeals,” *Fish Webinar* (November 2, 2022)
- “2022 Patent Law Year in Review – Distilling the Federal Circuit’s Decisions into Action-Oriented Practice Tips,” *Midwest IP Institute* (September 29, 2022)
- “IPR Update: Latest Trends at the PTAB and How to Maximize Chances of Success,” *Consero Global IP Management Forum* (June 15, 2022)
- “Discovering New Frontier for Second Medical Use Patent” *European Summit on Pharma and Biotech Patent Litigation* (March 15, 2022)
- “Post-Grant for Practitioners: Post-Grant Appeals,” *Fish Webinar* (November 10, 2021)
- “Richard K. Herrmann Technology Inn of Court” (November 2020)
- “Post-Grant for Practitioners Webinar | Post-Grant Appeals,” *Fish Post-Grant Webinar* (November 2020)
- “Intellectual Property Litigation – Strategies and Stories From Practice During the Pandemic,” *Philadelphia Intellectual Property Law Association’s (PIPLA) September Meeting* (September 2020)
- Selected to participate in the Delaware Federal Trial Practice Seminar, an intensive litigation seminar sponsored by the U.S. District Court for the District of Delaware

## Media Mentions

- “‘Rigged’ Patent Board Allegations Have High Bar, Attorneys Say,” *Bloomberg Law* (September 27, 2022)
- “Federal Circuit’s Patent Power on the Line in Full Rehearing Bid,” *Bloomberg Law* (August 10, 2022)
- “Justices Reject Daikin Challenge To Chemours’ IP Case Win,” *Law360* (March 28, 2022)
- “What makes this case different? A rare patent owner win on secondary indicia,” *Berkeley Center for Law & Technology’s Expert Podcast Series* (August 10, 2021)

- “Detroit Partnerships Aim to Bring Practical Law Education to More High School Students,” *StreetLaw Inc.* (June 9, 2021)
- “Remote Court Arguments Pose Challenges, New Routes for Lawyers,” *Bloomberg Law* (April 23, 2020)
- “Lessons From 1st Attys To Argue At The Fed. Circ. By Phone,” *Law360* (April 15, 2020)
- “Skilled in the Art: Fish Associate’s First CAFC Argument Poses Extra Challenge,” *Law.com* (April 10, 2020)

## Recognition

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- Named to the “Best Lawyers: Ones to Watch” list by *The Best Lawyers in America*© (2022-2023)
- Named to “DBT40” list, *Delaware Business Times* (2021)
- Named a “Women Worth Watching in STEM,” *Profiles in Diversity Journal* (2021)
- Named a “40 Under 40,” *Philadelphia Business Journal* (2021)

## Clerkships

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U.S. Court of Appeals for the Federal Circuit, The Honorable Sharon Prost, 2015 - 2016

U.S. Court of Appeals for the Third Circuit, The Honorable Kent A. Jordan, 2014 - 2015

## Memberships & Affiliations

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South Asian Bar Association, President (2022-Present); Board Member (2017-2022)

pro bono, Federal Civil Panel

pro bono, Immigration Equality

Chair, Third Circuit Lawyers Advisory Committee

Board Member, Innocence Delaware

# Languages

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- English
- Hindi