



Nimalka Wickramasekera

Partner
Co-Chair, Intellectual Property Practice

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Nimalka has years of trial and counseling experience in connection with high-tech disputes. Paired with her strong technical background and significant stand-up courtroom experience, Nimalka’s deep IP knowledge has earned her industry praise and recognition, including by Am Law Litigation Daily with a “Litigator of the Week” runner up in 2019. *IAM* described her as having “trial smarts in abundance” and being “aggressive in pursuing early resolution to disputes.”

Nimalka is co-chair of Winston’s Intellectual Property Practice and an intellectual property litigator with over 15 years of trial and counseling experience. Nimalka began her career in the health care industry, working as a researcher at Abbott Laboratories and Eli Lilly & Co. She has a thriving medical device and technology practice, representing clients in connection with patent and licensing disputes. Nimalka has significant stand-up courtroom experience, including having served as trial counsel—lead, co-lead, and second chair—in several patent and technology-related commercial disputes, one of which resulted in a US\$101 million verdict that was named one of the top verdicts in California in 2011. She recently delivered client Teva Pharmaceuticals their first patent jury trial victory, clearing Teva

of a US\$41M patent infringement suit involving two generic drugs. Nimalka has appeared in trials before district courts, the International Trade Commission, and the Patent Trial and Appeal Board. Nimalka represents or has represented Medtronic, Sientra, Alphatec, Teva Pharmaceuticals, Cisco, T-Mobile, and Microsoft in patent and commercial matters.

Key Matters

Some of the experience represented below may have been handled at a previous firm.

Representative Intellectual Property Matters

- *Grecia v. T-Mobile USA, Inc.* (S.D.N.Y.) – Counsel for T-Mobile in a patent infringement dispute brought by William Grecia relating to digital rights management technology. The case was voluntarily dismissed after Winston filed a motion to dismiss.
- *Mentone Solutions LLC v. T-Mobile USA, Inc.* (E.D. Tex.) – Counsel for T-Mobile in a patent infringement dispute brought by Mentone Solutions relating to packet data transmissions. Winston obtained a favorable settlement after filing a motion to dismiss.
- *DRM Vectors, LLC v. Microsoft Corporation* (D. Del.) – Counsel for Microsoft in a patent infringement dispute brought by DRM Vectors relating to digital rights management technology.
- *Orexo AB et al v. Actavis Elizabeth LLC et al.* (D. Del.) – Represented Actavis Elizabeth and Teva Pharmaceuticals in patent infringement suit brought by Orexo relating to two opioid addiction treatment drugs. Winston achieved a jury trial victory, clearing Teva of the US\$41 million sought in damages. The verdict earned Nimalka and her team a runner up recognition for AmLaw’s Litigators of the Week, and media coverage in Law360 and Bloomberg News, among other outlets.
- *NuVasive, Inc. v. Alphatec Holdings, Inc. et al.* (S.D. Cal.) – Lead counsel for Alphatec Holdings in patent infringement dispute brought by NuVasive, Inc. relating to spinal surgical implants and access tools patents, in which Winston defeated preliminary injunction.
- *Eli Lilly and Co. v. Actavis Laboratories UT, Inc. et al.* (E.D. Va.) – Represented Teva and Watson in an ANDA case against Eli Lilly concerning the drug tadalafil (Cialis®). Obtained a favorable settlement a week before trial.
- *Supernus Pharmaceuticals Inc. v. Actavis, Inc. et al.* (D.N.J.) – Represented Actavis and Watson in an ANDA case against Supernus concerning the drug topiramate (Trokendi XR®). Obtained a favorable settlement weeks before trial.
- *Medtronic v. NuVasive* (S.D. Cal.) – Second chair trial counsel for Warsaw Orthopedic, Inc., (a Medtronic entity) in the first phase of a patent infringement dispute with NuVasive, Inc. The jury found that NuVasive’s spinal technology infringed all three of Warsaw’s asserted patents and awarded US\$101.2 million to Warsaw. The verdict received extensive media coverage, including *Los Angeles Daily Journal*, *AmLaw Litigation Daily*, *Law360*, and *Bloomberg News*, among other outlets.
- *Medtronic v. NuVasive* (PTAB) – Argued on behalf of patent owner (Warsaw Orthopedic, Inc., a Medtronic entity) an *inter partes* review proceeding regarding a patent involving methods of performing spinal fusion surgeries. The PTAB issued a final decision in favor of patent owner, confirming over half of the claims under review.
- *Realtime Adaptive Streaming LLC v. Cisco Systems, Inc.* (E.D. Tex.) – Currently represented Cisco in a patent case involving System and methods for video and audio data distribution.
- *In the Matter of Certain Network Devices, Related Software and Components Thereof* (International Trade Commission) – ITC trial team member in a dispute filed by Cisco Systems, Inc., against Arista Networks, Inc., involving claims of infringement on numerous patents. Argued on behalf of Cisco at Markman and other hearings, and examined experts during the Hearings in both Investigations.

- *CES Group, LLC v. Energy Labs, Inc. et al.* (N.D. Cal.) – Successfully represented Energy Labs in a six-patent-case filed by Nortek Air Solutions involving custom air handling units. The jury found that Energy Labs’ Optiline Fan Array and custom air-handling units do not infringe any of Nortek’s patents, and that the majority of the asserted Nortek patent claims are invalid. The verdict received extensive media coverage, including AmLaw Litigation Daily and Law360, among other outlets. Nimalka examined Energy Labs’ damages expert at the jury trial. Nortek was seeking \$5.1 million along with the injunction. According to AmLaw Litigation Daily, “Though rendered unnecessary by its infringement verdict, the jury went on to specify damages: Zero.”
- *ViaSat, Inc. Via Sat Communications., fka WildBlue Communications, Inc. v. Space Systems/Loral, Inc.* (S.D. Cal.) – Represented Boeing in a high-stakes patent infringement case seeking disclosure of Boeing’s trade secrets and propriety information relating to satellite technology. In a lengthy written opinion, the Federal Magistrate Judge presiding over the matter praised Nimalka’s arguments and granted the relief sought by Boeing in its entirety.
- *DePuy Orthopedics Inc. vs. Los Angeles Orthopaedic Hospital* (N.D. Ind.) – Represented as co-lead counsel Los Angeles Orthopaedic Hospital (LAOH) in connection with a multi-million-dollar patent licensing dispute.

Representative Commercial Litigation Matters

- *Frey, George vs. Sofamor Danek USA* (D. Col.) – Co-lead trial counsel to Medtronic in a breach of contract action brought by Dr. Frey, a Colorado surgeon, against Sofamor Danek Holdings, Inc. and Medtronic Sofamor Danek USA, Inc. The matter settled favorably for Medtronic.
- *HiTherm, LLC and Aniqu Sufi v. Steven G. Keener, et al.* (Los Angeles County Superior Court) – Represented a Boeing employee in connection with an action for misappropriation of trade secrets and breach of contract related to a chemical coating used to maintain aircraft exteriors.

Recent Experience

Rare Noninfringement Jury Verdict for Teva N.A. in Patent Infringement Case for Suboxone® Tablets

Recognitions

Nimalka was most recently recognized by Am Law as a “Litigator of the Week” runner up for her jury verdict for Teva Pharmaceuticals. She was named by the *Los Angeles Business Journal* as one of the 2024 “Top 100 Lawyers of Los Angeles” and as one of the 2021 “Minority Leaders Of Influence.” She was recognized as a “Key Lawyer” by *The Legal 500 US* in Patents: Litigation (2021) and in Healthcare: Life Sciences (2022–2023). She was recognized in *The Lawdragon 500 Leading Litigators in America* for IP litigation, especially patent in 2022–2023 and *Benchmark Litigation* in the 2019, 2020, 2023, and 2024 editions as a “Future Star.” Nimalka was recognized in *IAM Patent 1000 2019–2023*, which touted that “[Nimalka] has technical and trial smarts in abundance, which have been put to good use on behalf of spinal surgery device innovator Alphatec Holdings and Medtronic. Aggressive in pursuing early resolutions to disputes, she has a strong business head on her shoulders which clients really appreciate” (2019). Nimalka was recognized by *LMG Life Sciences* in 2021 and 2022 for Hatch-Waxman patent litigation. *The Legal 500 US 2018* highlighted Nimalka’s arrival at Winston as “further strengthening” the firm’s patent litigation practice, and she was named by *The Recorder* as a “Lawyer on the Fast Track” in 2013.

Activities

Nimalka is co-chair and co-founder of the Los Angeles chapter of ChIPs, a nonprofit organization focused on advancing and connecting women in technology, law, and policy. She is also a member of Los Angeles Intellectual Property Law Association (LAIPLA), Law360's 2022 IP Editorial Advisory Board, and the Los Angeles Association of Business Trial Lawyers (ABTL). Nimalka serves as co-chair of Winston's Patent Trial and Appeals Board practice, and is a member of the firm's Technology, Media and Telecommunications and Health Care industry groups.

“Nimalka is top notch. She is the go-to team leader for high-stakes patent litigation, as she is a strategic advocate who delivers outstanding results time and again.”

IAM Patent 1000

Credentials

EDUCATION

Nimalka received her B.S. in molecular, cell & developmental biology from University of California, Los Angeles in 1999. She received her J.D. from The John Marshall Law School, *magna cum laude*, in 2006 where she was a member of *The John Marshall Law Review* and received the Dean's Scholarship & Fred F. Herzog Scholarship Award.

Prior to joining Winston, Nimalka was a litigation partner at another Am Law 100 firm, where she served on the Diversity and Inclusion Committee.

ADMISSIONS

- California
- Illinois

Related Insights & News

Publications

- Co-Author, “The Patent Protection Conundrum Facing Producers of AI-enabled Software as Medical Devices,” *MedCity News*, Jun. 2019
- Co-Author, “The Bot Battle,” *Intellectual Property Magazine*, May 2019.
- Quoted, “FDA's AI paper draws cheers, but agency expected to resist calls for legislation,” *BioWorld MedTech*, Apr. 2019
- Co-Author, “Could ‘SAS Institute’ Signal the End of Partial Institutions in IPR Proceedings?” *The Recorder*, Feb. 2018
- Author, “The Biosimilars Are Coming: But Is It By Land Or By Sea?” *Biotech Update*, May 2009
- Author, “Public Use or Experimental Use: Are Clinical Trials Susceptible to Another Attack Similar to That in Smithkline Beecham,” *Corp. v. Apotex Corp.*, 39 *J. Marshall L. Rev.* 149 (2005)

Speaking Engagements

- Panelist, “Identifying and Pursuing Patent Infringers: Using Technical Evidence to Build Your Assertion Campaign,” IPWatchdog Webinar, May 2019
- Presenter, “California Ethical Overhaul CLE,” Winston & Strawn, Jan. 2019
- Panelist, “Pretrial Practice,” Stanford Program in Law, Science & Technology and Samsung Electronics Conference on Litigating Patents Effectively, Sep. 2018
- Panelist, “Climbing out of the Patentable Subject Matter ‘Rabbit Hole,’” American Conference Institute’s Medical Device and MedTech Patents Conference, Feb. 2018
- Panelist, “Venue Panel – TC Heartland” 2017 Berkeley-Stanford Advanced Patent Law Institute: Silicon Valley, Dec. 2017
- Panelist, “TC Heartland and Oil States,” Silicon Valley Association of General Counsel’s Monthly Luncheon, Jul. 2017
- Panelist, “FDA’s Proposed Hatch-Waxman Updates—Implications for Generics and Beyond,” Northwestern Journal of Technology & Intellectual Property Symposium, 2016

RECOGNITIONS

Winston & Strawn Recognized in 2024 *Benchmark Litigation*

OCTOBER 6, 2023

RECOGNITIONS

Winston & Strawn Partners Recognized in 2024 *Lawdragon* 500 Leading Litigators in America

SEPTEMBER 8, 2023

RECOGNITIONS

Winston Recognized in 2023 *IAM Patent 1000* Rankings

JUNE 26, 2023

RECOGNITIONS

Winston & Strawn Recognized in *The Legal 500 U.S.* 2023

JUNE 7, 2023

RECOGNITIONS

Winston Wins 2022 Alice Paul Award for Dedication to Women’s Rights Through Pro Bono Support

NOVEMBER 21, 2022

RECOGNITIONS

Winston & Strawn Partners Recognized in 2023 *Lawdragon* 500 Leading Litigators in America

OCTOBER 5, 2022

RECOGNITIONS

Winston & Strawn Highly Recommended in 2022 *LMG Life Sciences*

SEPTEMBER 28, 2022

RECOGNITIONS

Winston Recognized in 2022 *IAM Patent 1000* Rankings

JULY 5, 2022

RECOGNITIONS

Winston & Strawn Recognized in *The Legal 500 U.S. 2022*

JUNE 8, 2022

RECOGNITIONS

Law360 Names Winston Attorneys to 2022 Editorial Advisory Boards

MAY 6, 2022

IN THE MEDIA

Winston Attorneys Discuss Industry Trends on *BCLT's Expert Series* Podcast

OCTOBER 28, 2021

SPONSORSHIP

Winston & Strawn Sponsors ChIPs 2021 Virtual Global Summit

OCTOBER 27, 2021

Capabilities

Litigation/Trials

Intellectual Property

Patent Litigation

ITC – Section 337

Trade Secrets, Non Competes & Restrictive Covenants

Technology, Media & Telecommunications

Medical Devices

Life Sciences