

Victor de Gyarfas

Partner

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Victor de Gyarfas is a partner and registered patent attorney splitting time in Foley's Los Angeles and Silicon Valley offices. His practice includes all aspects of patent, copyright, trademark litigation, and prosecution. His experience includes:

- Representing clients in intellectual property lawsuits in courts across the country including jury and bench trial victories as first chair
- Drafting and negotiating intellectual property licenses and agreements, software and website development agreements, asset purchase agreements, and other internet-related agreements
- Prosecuting patent applications and managing patent portfolios in a broad array of technologies including medical devices, electronics, software, and automotive technologies
- Preparing patent opinion letters and representing clients in reexamination and inter partes review proceedings
- Representing clients before the Trademark Trial and Appeal Board
- Litigating general business disputes

He has litigated more than 150 lawsuits, appearing in forums throughout the country, including all districts of California, Delaware, and more than 20 cases in the Eastern District of Texas. Victor has also litigated cases concerning copyright, trademark, and trade secret causes of action. His litigation experience has involved a wide range of technologies, including medical devices, computer software, e-commerce, communications networks, business method patents, network authentication and cryptographic communications, electronic gaming systems, web development, radio frequency identification (RFID), electronic payments and banking systems, e-Learning technology, video transmission and security systems, electrical circuits, television tuners, automatic vehicle identification products, automotive systems, power tools, consumer goods, fitness products, and electronic musical instruments. Victor also litigated cases concerning the Digital Millennium Copyright Act (DMCA), cybersquatting, and a number of general business matters.

Victor has managed patent portfolios for technology companies, and has experience with both inbound and outbound patent licensing, including patent licensing for “scroll wheel” technology included on millions of computer mice. He has also conducted intellectual property asset management and due diligence in connection with mergers and acquisitions.

He has prosecuted patent applications relating to blockchain applications, medical devices, dental instruments, electronic payments, automatic vehicle identification, software applications, mechanical devices, fitness products, and other technologies. He has also prosecuted design patent applications for consumer goods and software applications.

Victor served as a Ninth Circuit Judicial Conference Lawyer Representative for the Central District of California.

Victor was certified as a special prosecutor for the Los Angeles City Attorney’s office and first chaired criminal jury trials.

Before entering law school, Victor worked at Litton Data Systems and Hughes Training, Inc., performing electrical and software engineering. During his time as an engineer, Victor obtained two U.S. patents and received the Hughes Patent Award for Excellence in the Field of Patents.

Representative Experience

- Roland Corp. v. InMusic Brands, Inc. (S.D. FL.) – As lead counsel for one of the world’s top electronic musical instrument companies, obtained a \$4.6 Million judgment against a significant competitor in a 10 day trial. The jury found all asserted claims infringed and not invalid. The case received significant press coverage.
 - “Miami Judge Enters \$4.6M Final Judgment in Patent Litigation Involving Industry Rivals”
<https://www.law.com/dailybusinessreview/2022/11/23/miami-judge-enters-4-6m-final-judgment-in-patent-litigation-involving-industry-rivals/>
 - “Roland Wins \$4.6M In Drum Programming Patent Row”
<https://www.law360.com/articles/1551562>
 - “Jury Says InMusic Infringed Roland’s Drum Tech Patents”
<https://www.law360.com/articles/1550813>
 - “Roland wins \$4.6 million in tortuous patent lawsuit”
<https://5mag.net/news/roland-patent-suit-alesis-inmusicbrands/>
 - “Judgement Finds InMusic Infringed Roland’s Drum Tech Patents”
<https://www.musicincmag.com/news/detail/judgement-finds-inmusic-infringed-rolands-drum-tech-patents>
 - “Alesis Was Just Ordered To Pay Roland \$4,600,000: Here’s Why”
<https://youtu.be/z18CRn3SAgk>
 - “Roland wins patent action against Alesis”
<https://digitaldrummermag.com/2022/12/01/roland-wins-patent-action-against-alesis/>

- “Alesis owner inMusic ordered to pay Roland \$4.6m for infringing electronic drum kit patents”
<https://www.musicradar.com/news/alesis-roland-electronic-drums-patent-lawsuit>
- “Roland Wins Huge Lawsuit Protecting Their IP”
<https://www.elektronauts.com/t/roland-wins-huge-lawsuit-protecting-their-ip/184213>
- “Roland vs Alesis Patents Result”
<https://www.alesisdrummer.com/index.php?topic=9116.0>
- Docket Navigator’s Top Award of the Week
- “\$6M in Attorney Fees: Inside Foley & Lardner’s Billing”
An expert called the motion a “blueprint for asking a federal court for attorney fees.”
<https://www.law.com/dailybusinessreview/2023/02/21/6m-in-attorney-fees-inside-foley-lardners-billing/>
- simplehuman, LLC v. iTouchless Housewares and Products, Inc. (N.D. Cal.) – Prevailed on an unusual design patent claim construction ruling finding that Computer Aided Design (CAD) drawings showing tangent lines in a design patent “cannot possibly represent shading,” contrary to Plaintiff’s contention. The case settled favorably shortly thereafter. The ruling received media coverage.
 - “Court Interprets Purported Contour Lines in Design Patent Drawings as Claimed Features”
<https://www.jdsupra.com/legalnews/court-interprets-purported-contour-1484954/>
 - “In Design Patent Drawings, When Are Lines Lines, And When Are Lines Not Lines?”
<https://www.designlawperspectives.com/blog/in-design-patent-drawings-when-are-lines-lines-and-when-are-lines-not-lines-1>
 - “What Are Common Mistakes in Design Patent Applications?”
<http://www.blueovergray.com/common-mistakes-design-patent-applications/>
- Better Care Plastic Technology Co., Ltd. v. Gredale, LLC (C.D. Cal.) – After prevailing on summary judgment of liability in an unfair competition case, obtained a \$1.25 Million judgment.
- Bella Summit LLC v. Gamebreaker, Inc. (C.D. Cal.) – Prevailed on a patent claim construction ruling finding a key claim term rendering claims invalid. The case settled favorably shortly thereafter.
- Rockwell Collins v. Wallace (C.D. Cal.) — Successfully represented Rockwell Collins in a Defend Trade Secrets Act lawsuit against a former employee.
- Chao Seminars, Inc. v. Power Dental U.S.A. Inc. (N.D. Ill.) – Successfully represented Plaintiff in a patent infringement action involving dental technology.
- BillingNetwork Patent v. Therasoft (M.D. Fla.) — Obtained a zero payment dismissal for a leading medical practice management software company against a non-practicing entity.
- Shipping and Transit v. various defendants in various courts — Obtained quick and cost-effective settlements for defendants.
- Solar Sun Rings v. Secard Pools, et al. (C.D. Cal.) — As lead counsel defending a manufacturer of solar heating products and retailers, obtained summary judgment of no trade dress infringement and no trademark dilution.
- Ballistic Case v. Pelican Products (S.D. Fla.) — Obtained a zero payment dismissal for Pelican Products in less than a month after appearing in the case.

- Fontem Ventures v. Logic Technology Development (C.D. Cal.) — Lead counsel defending against charges of patent infringement relating to e-cigarette technology.
- Cyberfone Systems v. Sony Electronics, et al. (D. Del.) — Lead counsel defending Mitsubishi Electric Visual Solutions America in a patent infringement suit involving television technology.
- Klausner/IPVX v. Estech Systems (E.D. Tex.) — Lead counsel defending a business telecommunications company against charges of patent infringement.
- Becklin Holdings v. Pelican Products (D. Or.) — Days after Plaintiff sued Pelican Products and sought a preliminary injunction, convinced Plaintiff to withdraw the motion for preliminary injunction without even filing an opposition. Plaintiff dismissed the case for no payment.
- Stillman v. Novartis Consumer Health, et al. (C.D. Cal.) — As lead counsel representing a large retailer, prevailed on a motion to dismiss with prejudice and convinced Plaintiff to abandon an appeal.
- Walker Digital v. Amazon.com, et al. (D. Del.) — Represented a fortune 50 company as lead counsel in this case involving web technology and persuaded Plaintiff to dismiss the suit for no payment.
- Leon Stambler v. Atmos Energy, et al. (E.D. Tex.) — Lead counsel for a large retailer in a patent infringement suit involving cryptographic communications. The case settled after a favorable claim construction ruling.
- Joao Control & Monitoring Systems v. Acti Corporation, et al. (C.D. Cal.) — In a case involving video monitoring technology patents and more than 20 defendants, represented UTC Fire and Security, who was the only defendant to succeed on a motion to dismiss, which ended the client's involvement in the case.
- Joao Control & Monitoring Systems v. Playboy Enterprises, et al. (E.D. Tex.) — As lead counsel, successfully represented a group of 8 defendants.
- IP Innovation v. WebCT, et al. (S.D. Tex.) — Obtained summary judgment of patent non-infringement and dismissal of the case for the world's largest e-Learning company.
- Beckman Instruments v. Cincom Systems (C.D. Cal.) — In this trade secret and copyright infringement case, as trial counsel for a leading software company, obtained a multi-million dollar judgment based on a novel theory of copyright infringement relating to computer outsourcing.
- Caluori v. Robert Bosch, et al. (C.D. Cal.) — Lead counsel for the world's largest power tool and accessory manufacturer, obtaining a favorable and cost-effective settlement.
- 1st Technology, LLC v. Bodog Entertainment Group (D. Nev.) — Defended supplier to Bodog worldwide online gaming organization in a series of cases concerning alleged patent infringement related to digital media technology.
- FormFactor v. Microprobe (N.D. Cal.) — Represented a leading manufacturer of micro-electro-mechanical systems (MEMS) in a trade secret misappropriation case.
- Cincom Systems v. Hi-Shear Technology (C.D. Cal.) — Successfully represented a software development company in a trade secret and copyright infringement matter.
- Mark IV, Ltd. v. TransCore LP (S.D. Cal.) — Defended a leading manufacturer of radio frequency identification (RFID) systems in a trade secret misappropriation and breach of contract case.
- Member of the trial team that obtained one of the largest verdicts in a patent infringement case in the Eastern District of Virginia and a US\$100m settlement.

- Obtained summary judgment of no trade dress infringement for a leading manufacturer of consumer goods.
- Obtained zero payment, or favorable settlement amount dismissals of numerous lawsuits brought by non-practicing entities, including Acacia and various Acacia entities, Eclipse IP, Fowler Woods, Macrosolve, Molinaro, Network Architecture Innovations, Network Signatures, Pherah, Sharing Sound, Site Update Solutions, Software Restore Solutions, T-Rex Property, and Verified Hiring, among others.
- Lead counsel for Surflife.com and other successful, Internet-based businesses, obtaining damages as well as preliminary and permanent injunctive relief concerning trademark infringement, trade secret misappropriation, and liability under the Digital Millennium Copyright Act for circumvention of copyright protection systems.
- Other representative clients include Mitsubishi, Toshiba, Cummins, Marvell Semiconductor.

Awards and Recognition

- *Southern California Super Lawyers®* lists every year since 2009
- *Southern California Super Lawyers–Rising Stars* (2004)
 - Intellectual property litigation, intellectual property, and business litigation

Affiliations

- Member of the board of the Southwestern Law School Entertainment and Intellectual Property Alumni Association board of directors

Community Involvement

- Performs pro bono services for the Alliance for Children's Rights representing adoptive parents in foster care adoptions

Presentations and Publications

- "Software Companies Sued For Patent Infringement May Seek Speedy Dismissals," 28 No. 3, *IP Litigator*, May/June 2022
- "Pleading a Claim for Misappropriation of Trade Secrets in California: A Problem of Particularity," 23 No. 3 *Cyberspace Lawyer*, April 2018 (co-author)
- "Surge in Auto Patent Suits Calls for Innovative Legal Strategy," *WardsAuto*, March 24, 2014 (co-author)
- "Patent Marking Requirements Post *TransCore*," *IP Law360*, October 16, 2009 (co-author)
- "Hot Topics In IP – The Federal Circuit To Review The Written Description Requirement," *Association of Corporate Counsel Southern California Chapter Newsletter*, October 6, 2009
- "Patent Licensing and Declaratory Judgment Actions After *MedImmune*," *Cutting-Edge Life Sciences Practice and Law*, 2009, at 148
- "Practical Post-Trial Tips in Patent Cases," *Practical Tips on Intellectual Property Law*, 2005, at 421

- “Acacia’s Digital Media Transmission Patent Licensing Efforts in the Crosshairs of a Summary Judgment Motion,” *ipFrontline Intellectual Property Magazine*, November 30, 2004
- “Transmission Intercepted: Acacia’s Widespread Patent Litigation,” *Mondaq.com*, August 19, 2004
- “Acacia’s Digital Media Transmission Patent Licensing Gun: Bullets or Invalid Blanks,” *Computer and Online Industry Litigation Reporter*, July 27, 2004, and *Intellectual Property Litigation Reporter*
- “The Rules Are Different For Copyright Licenses,” *World Licensing Law Report*, May 2002, at 9
- “Patent” and “Personal Jurisdiction” sections of *Law Of The Internet In California*, July 2001
- “The Uncertain Fate Of Trademark Licenses In Bankruptcy Court (A License To Lose),” *Los Angeles Lawyer*, September 1997, at 32 (Also appeared on the cover of the magazine) (co-author)
- “Review Of 1995 Intellectual Property Law Developments In The Ninth Circuit,” *Review Of Developments In Business And Corporate Litigation*, 1996, at 103
- “Sega v. Accolade: A Step Forward For Reverse Engineering?,” 23 *Southwestern University Law Review* 571 (1994)
- “Software As Patentable Subject Matter: A Comparison Of International Approaches,” *New Matter*, Fall 1993, at 7
- “Trade Secrets – The New Federal Defend Trade Secrets Act,” Foley & Lardner IP Conference, November 11, 2016
- “When Science Meets Style: Recent Patent Issues In Fashion Law – Design Patent Litigation,” Southwestern Law School, May 19, 2016
- “A Stronger IP Protection Strategy: New Considerations For A Socially Connected World,” Panel Moderator, IP Counsel Café, May 5, 2016
- “Intellectual Property Best Practices,” Presenter to Chinese Ministry of Commerce Delegation, February 4, 2015
- “100 Shades of Non-Practicing Entities and Evolving Solutions,” Panel Moderator, Foley & Lardner LLP Tenth Annual IP Conference, September 19, 2014
- “Strategies and Best Ways to Deal with Trolls/Non-Practicing Entities (NPEs),” Knowledge Congress, September 5, 2013
- “America Invents Act: How the New Patent Legislation Will Affect Your Clients,” Lorman Seminars, January 20, 2012
- “Patently Absurd! – The Value and Purpose of Patents in the Software, Communications, and Digital Media Industries,” Panelist, Donald L. Stone Inn of St. Ives, October 20, 2011
- “Evolution of Non-Practicing Entities,” Panel Moderator, Foley & Lardner LLP Seventh Annual IP Conference, September 19, 2011
- “Intellectual Property Career Panel,” Southwestern Law School, March 18, 2010; October 10, 2013; September 22, 2014, November 4, 2015
- “Patent Licensing and Declaratory Judgment Actions After MedImmune,” American Intellectual Property Law Association, January 24, 2008
- “Patents and Patent Litigation,” Lorman Education Services, May 25, 2006

- “Optimizing IP Protection for Software” & “DMCA Anti-Circumvention Provisions,” IP Law & Business – Innovations in IP Litigation, May 17, 2006
- “Pre & Early Stage Patent Litigation – Settlement and Alternative Dispute Resolution,” Law Seminars International, October 14, 2005
- “Practical Post-Trial Tips in Patent Cases,” American Bar Association, April 13, 2005
- “Calculating the Value of Patents: The Impact of Alternatives, Price Erosion, and Convoyed Sales,” Law Seminars International, July 16, 2004
- “Patents” and “Personal Jurisdiction,” National Business Institute, July 31, 2001
- “The Treatment of Trademark Licenses in Bankruptcy Court,” Los Angeles Intellectual Property Law Association, October 14, 1997
- Guest Lecturer, “Software Patents,” Southwestern University School of Law, March 15, 1995; September 18, 1996; March 10, 1999

Media References

- “Toyo Seeks \$300K in Fees After \$1.6M Contempt Sanction,” *Law360* (Intellectual Property), December 20, 2017
- “5 Tips for Staying Safely Inside the DMCA’s Safe Harbor,” *Law360* (Intellectual Property, International Trade, Technology), September 25, 2013
- “U.S. Court in Texas Leaps Past L.A. in New Patent Cases,” *Los Angeles Business Journal*, January 7, 2008
- “Supreme Court Loosens Patent ‘Obviousness’ Test,” *CNET*, April 30, 2007
- “Netflix Lawsuit,” *Intellectual Property Technology Daily*, November 27, 2006
- “Supreme Court To Review Microsoft Patent Appeal,” *New York Times*, October 27, 2006
- “Judge To Rule In Netflix, Blockbuster Patent Dispute,” *National Journal Technology Daily*, August 17, 2006
- “Acacia Targets Film, Media Companies Over Alleged Patent Infringement,” *Orange County Business Journal*, September 19, 2005
- “Acacia Sets Sights On Hollywood Companies In A Battle Over Its Licenses Of Technology Patents,” *Los Angeles Business Journal*, September 14, 2005
- “Attorneys Score Against E-Learning Patent Plaintiff,” *Daily Journal*, August 2, 2004

Sectors

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Practice Areas

- Business Litigation & Dispute Resolution
- Business Method & Software Patents
- Electronics
- IP Asset Management
- IP Litigation
- Intellectual Property
- Patent Litigation
- Trademark, Copyright & Advertising Litigation

Education

- **Southwestern University School of Law (J.D., cum laude, 1994)**
 - **Top 10%**
 - **Editor of the *Law Review***
 - **Member of the Moot Court Honors Program**
- Harvey Mudd College (B.S.)
 - Physics

Admissions

- California
- Texas
- District of Columbia
- U.S. Patent & Trademark Office
- Numerous District Courts and Courts of Appeals
- United States Supreme Court