



DON F. LIVORNESE

donl@ruyakcherian.com

Berkeley – 510-674-0347

Los Angeles – 310-586-7689

Practices:

Intellectual Property Litigation including Patents, Trademarks, Copyrights and related Unfair Competition; Trade Secret Litigation; International Trade Commission – Section 337 Litigation; Post-Grant Proceedings (*Inter Partes* Review, Post-Grant Review and Covered Business Method Review) before the Patent Trial and Appeal Board and *Ex Parte* Reexamination before the Patent and Trademark Office.

State Bar:

California

U.S. Patent and Trademark Office

Court Admissions:

U.S. Court of Appeals for the Federal Circuit

U.S. Court of Appeals for the Ninth Circuit

U.S. District Court for the Central District of California

U.S. District Court for the Northern District of California

U.S. District Court for the Southern District of California

U.S. District Court for the Eastern District of California

U.S. District Court for the Eastern District of Texas

Education:

The George Washington University Law School, JD, *with honors*

University of Colorado at Boulder, BS Mechanical Engineering

Mr. Livornese is a partner in Southern California, splitting time with the firm's San Francisco office. He was formerly a Los Angeles intellectual property partner at Howrey LLP for over a decade.

Mr. Livornese's practice includes representing plaintiffs and defendants in patent, trademark, copyright, trade secret and related unfair competition disputes, including as first chair. He has handled infringement actions in district courts nationwide, including jury trials to verdict and appeals before the Court of Appeals for the Federal Circuit. He has first chair experience representing

clients in Section 337 actions before the International Trade Commission, including hearings before the ALJ and appeals to the Court of Appeals for the Federal Circuit. He also represents clients in Post-Grant Proceedings (*Inter Partes* Review, Post-Grant Review and Covered Business Method Review) before the Patent Trial and Appeal Board and *Ex Parte* Reexamination before the Patent and Trademark Office. Mr. Livornese has been registered to practice before the PTO since law school (originally admitted as patent agent).

Mr. Livornese has handled infringement actions in a variety of technologies, including wireless communications and hardware, network transmission and hardware, digital signal encryption, digital storage devices including flash memory, radio frequency identification (RFID) technology, semiconductors and semiconductor manufacturing equipment, 3D printing and stereolithography, MEMS technology, biotechnology and medical devices.

Representative Cases

Kyocera Wireless et al. v. ITC. Lead trial and appellate counsel for Kyocera Wireless in the landmark CAFC case holding that the ITC lacks jurisdiction to issue limited exclusion orders against nonrespondents. This reversed a longstanding Commission practice of permitting Complainants to exclude, under a limited exclusion order, products imported by downstream manufacturers that had not been named as respondents in the complaint. In the ITC investigation (*In re Certain Baseband Processors*) against respondent QUALCOMM, Broadcom sought a limited exclusion order covering 3G cellular handsets imported by a large number of manufacturers and carriers that Broadcom failed to name as respondents. A number of manufacturers (including Kyocera Wireless) and carriers intervened, and with QUALCOMM they convinced the ALJ not to issue a downstream exclusion order. The Commission nevertheless issued a sweeping limited exclusion order against the entire 3G handset industry. The CAFC struck down the limited exclusion order, holding "...Section 337 permits exclusion of the imports of non-respondents only via a general exclusion order, and then too, only by satisfying the heightened requirements of 1337(d)(2)(A) or (B). The statute permits LEOs to exclude only the violating products of named respondents..."

Antor Media Corp. v. Nokia, Inc. et al. (Antor II). Lead counsel representing defendant Kyocera Wireless Corp. in patent litigation in the Eastern District of Texas relating to downloading media content. Filed one of the initial four successful reexamination requests. Subsequently filed successful fifth reexamination request attacking 80 additional claims added by plaintiff during reexamination. The case was stayed pending reexamination, which found all claims unpatentable. The PTO Board and CAFC affirmed.

Saxon Innovations/Norman IP Holdings v. Casio, et al. Lead counsel for Kyocera defendants in E.D. Texas and Kyocera DJ plaintiffs in S.D. California patent infringement actions relating to signal encryption, low power consumption and inter-processor communication.

Sanyo Energy (USA) Corporation, et al., v. BYD Co. Ltd. Represented defendant BYD in patent infringement suit brought by Sanyo in the Southern District of California relating to lithium ion battery technology. Substituted in as trial counsel six weeks before trial; the case settled on eve of

trial after adverse jury instructions were obtained and evidence was excluded for spoliation.