

Sony B. Barari



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Education

College of William Mary, J.D., 2005
Harvard University, M.A. (Government), 2007
University of California, Los Angeles, B.S.
(Molecular, Cell and Developmental Biology),
2002

Professional Affiliations

American Intellectual Property Law Association
San Francisco Intellectual Property Law
Association
North American South Asian Bar Association
ACLU of Northern California

Bar Admissions

State Bar of California
United States Patent and Trademark Office
Patent Bar
Northern, Central, Eastern and Southern
Districts of California
Federal Circuit

Practice Areas

Business Litigation
Intellectual Property Litigation
Patent Litigation
Real Estate Litigation
Trade Secret Litigation
Trademark, Copyright and Technology Licensing Litigation
Trust and Estate Litigation

Experience

Sony Barari is a Principal of the firm. He is a CLAY-award (California Lawyer Attorney of the Year) winning litigator with over fifteen years of experience. His practice focuses on high-stakes complex cases, with a focus on patent, trade secret, and other intellectual property litigation. He has also first or second-chaired multiple trust trials, including two recent cases where he and his trial team obtained a complete defense verdict in connection with a \$690 million community property claim against a large trust, as well as a \$250 million complete defense verdict on an oral inheritance claim.

With a scientific background in molecular biology and genetics, Mr. Barari has also litigated or otherwise counseled clients in patent-related matters in various other fields, including computer software, language coding and recognition, mobile communications, systems monitoring and electronics. He is a former in-house attorney for a biotech company and a former employee of the United States Patent and Trademark Office (USPTO) as well as a current member of its patent bar. He has used this insider knowledge to develop a deep background in patent analysis and proceedings before the USPTO.

Mr. Barari also has extensive experience counseling clients regarding trademark, trade secret, copyright, right of publicity and unfair competition matters, and has assisted companies with developing and implementing strategies for the protection and licensing of their intellectual property portfolios. Mr. Barari's practice has included cases before various federal district courts across the country as well as appellate matters before the Ninth Circuit Court of Appeals, the Federal Circuit Court of Appeals, and the Supreme Court of the United States.

Representative Cases

In *In Re Trust of Francesca Naify*, Mr. Barari and team successfully defended the Robert A. Naify Trust against a petition where a step-daughter claimed that her mother was not accorded her full share of community property. During a 20-day court trial held in May and August 2022, with 28 witnesses called, Petitioner sought damages of \$680 million, including exemplary damages and attorneys' fees. The Court's Statement of Decision rejected all of Petitioner's claims, finding in favor of Bartko's clients on three affirmative defenses and other claims. The Court also found that even if the Trust did not prevail on its defenses, Petitioner only established damages in the amount of \$167,000.

Representative Cases [Continued]

In *In Re Trust of Robert Naify*, Mr. Barari and the Bartko team defended a claim for breach of alleged oral inheritance promises. Mr. Naify's step-daughter claimed she was promised a golf course in Spain and to be treated the same as Mr. Naify's biological daughters in his final trust – claims valued between \$250 million and \$300 million. In 2021, our clients prevailed after a three-week court trial where the Court found petitioner failed to prove her alleged promises. Judgment entered in favor of the Naify Trust, including an award for legal costs.

In *In Re Trusts of Robert and Francesca Naify*, Bartko successfully resolved two other petitions brought against the Naify Trust by a second step-daughter, again alleging improper allocation of community property. The court-approved settlement provides a lifetime trust for housing and certain living expenses, but no lump-sum payment. All of this petitioner's claims were released and dismissed.

In the landmark *Natera, Inc. v. Sequenom, Inc.* (N.D. Cal.) case, Mr. Barari was lead counsel representing a plaintiff seeking to invalidate a patent relating to non-invasive prenatal genetic testing. He succeeded in obtaining a summary judgment of invalidity on the grounds that the patent – which had sought to claim discoveries relating to the mathematical relationship between maternal and fetal DNA in the mother's bloodstream – extended to unpatentable laws of nature. Otherwise, the patent had threatened to violate this fundamental tenet of patent law and foreclose an entire field of technology based on the discovery that fetal DNA is present in mappable quantities in maternal blood as early as 10 weeks into pregnancy. The ruling was unanimously affirmed by the Federal Circuit Court of Appeals in a consolidated appeal, and upon argument and review, the Supreme Court of the United States declined to grant certiorari in *Ariosa Diagnostics, Inc. et al. v. Sequenom, Inc.*, 788 F.3d 1371 (Fed. Cir. 2015), cert. denied 136 S. Ct. 2511 (2016).

In *AntiCancer, Inc. v. Carestream Health, Inc.* (S.D. Cal.), Mr. Barari defended a medical imaging equipment maker against claims of infringement of patents covering the imaging of cancer cells genetically transformed to express green fluorescent proteins (GFPs). Mr. Barari's familiarity with the field and ability to conduct his own primary source scientific research allowed him to identify relevant prior art that resulted in the case settling favorably after a partial summary judgment of non-infringement was granted in favor of his client.

In *Genetic Technologies Limited v. Natera, Inc.* (D. Del. and N.D. Cal.), Mr. Barari was lead counsel defending a genetic testing company against claims of patent infringement by a nonpracticing entity. After obtaining a rarely granted transfer of the matter from the plaintiff's home venue of Delaware to the client's home in the Northern District of California, 2014 WL 1466471 (D. Del. Apr. 15, 2014), the plaintiff dismissed all claims in a "walk away" agreement without payment.

In *Davis v. Electronic Arts* (N.D. Cal.), Mr. Barari represented the class of all former NFL athletes whose likenesses had been improperly used for the "historic teams" in the popular Madden NFL video game series without their consent. In a decision that has had extensive repercussions (including with the similar suit brought by NCAA athletes against EA sports for misappropriating the likenesses of college athletes without compensation), the Ninth Circuit upheld the district court's finding that EA could not claim an "incidental use" or a First Amendment defense to the NFL players' right-of-publicity claim.

In *Netlist v. Diablo* (N.D. Cal.), Mr. Barari represented plaintiff in a complicated trial of trade secret, patent and trademark claims involving state of the art memory module technology.

Representative Cases [Continued]

In *WiAV v. Motorola* (E.D. Va.), Mr. Barari was a member of a team representing patent-owner Mindspeed Technologies, Inc. against claims of invalidity and unenforceability for eight of its patents related to speech coder technology.

In *EBS Automotive Systems et al. v. Illinois Tool Works et al.*; *Illinois Tool Works v. MOC Products Company et al.* (S.D. Cal.), Mr. Barari represented Illinois Tool Works in two patent infringement cases involving motor vehicle maintenance equipment.

In *International Printer Corp. v. Brother International Corp. et al.* (E.D. Tex.), Mr. Barari defended the producer of imaging and printing equipment in a patent infringement suit in the Eastern District of Texas regarding systems and methods for monitoring and controlling copy machines.

Mr. Barari managed the transition of American Honda's entire copyright portfolio into digital media and developed an ongoing program for copyright renewal and registration.