

Matan Shacham

PARTNER
HE/HIM/HIS

mshacham@keker.com
(415) 773-6612

PRACTICE AREAS

Appellate, Professional Liability, Antitrust, Consumer & Class Actions, Intellectual Property, Securities, Contract & Commercial



Matan Shacham defends businesses, executives, and professionals in high-stakes, complex civil litigation. He has tried nine cases to verdict in federal and state courts, and before arbitrators, across the country. He has also litigated appeals before the California Court of Appeal, the Ninth Circuit, the First Circuit, and the Federal Circuit.

Matan's practice extends across a wide range of subject areas. He has deep experience in the developing fields of AI law and internet law, and he has advised and defended leading AI labs and social media companies in matters involving cutting-edge issues in those fields. He has represented some of the country's top technology companies in high-stakes antitrust, patent, and trade secret cases. He has represented executives in high-profile securities cases and other complicated business disputes. He has also defended attorneys—from international *Am Law* 100 firms, regional boutiques, and plaintiff-side firms—in major legal malpractice lawsuits.

In 2021, Matan was named a *Law360* Rising Star, including for his work defending Qualcomm in a month-long antitrust trial and a related consumer class-action.

Matan has an active pro bono practice, focusing on civil rights issues. He serves on the Executive Committee for the Bar Association of San Francisco's Intellectual Property Section, and he previously served as Chair of the Civil Rights Committee for the Anti-Defamation League's Central-Pacific Region.

Prior to joining the firm, Matan clerked for the Hon. Sandra L. Lynch of the U.S. Court of Appeals for the First Circuit. He earned his J.D., *cum laude*, from Harvard Law School, where he served as Executive Editor of the *Harvard Law Review*.

CASES OF NOTE

Federal Trade Commission v. Qualcomm

We represented Qualcomm in a case brought by the FTC alleging that Qualcomm had failed to license its standard-essential patents at fair, reasonable and nondiscriminatory (FRAND) royalty rates and that Qualcomm had engaged in exclusionary conduct that increased its competitors' costs and reduced their ability and incentive to innovate. Following a month-long bench trial, the district court issued an injunction that would have forced Qualcomm to license rival chip suppliers and renegotiate its existing licenses with cellphone makers. In August of 2020 the Ninth Circuit reversed the district court's judgment and vacated the injunction.

In Re: Qualcomm Antitrust Litigation

We defended Qualcomm against antitrust claims made by a putative class of 250 million cellphone users (one of the largest class actions ever) alleging that Qualcomm had inflated mobile device prices through its standard-essential patent licensing practices. The Ninth Circuit granted a petition for interlocutory review of the court's class certification order, and ultimately overturned certification, ruling that the district court erred in its choice of law analysis and found that differences in state antitrust laws preclude the uniform application of California's Cartwright Act to antitrust actions filed by consumers nationwide. On remand, we eliminated the remaining claims via subsequent motions to dismiss and summary judgment, resulting in a complete victory for Qualcomm.

Real Estate Developer v. Law Firm et al.

We represented a law firm and individual attorneys in a highly contentious and complicated case brought by a developer alleging legal malpractice claims against our clients, along with numerous claims against a large group of other individuals and companies involved in a real estate joint venture. We executed an aggressive defense strategy, using early discovery and motion practice, to quickly extricate our clients from the dispute. We secured dismissal for waiver of costs for all the individual attorneys and a favorable early settlement for the law firm.

Ericsson v. D-Link et al

We led an industry-wide joint defense group through a 7-day jury trial in the Eastern District of Texas. Ericsson asserted 5 patents that it claimed read on the 802.11 wifi standard, and it sued a large number of companies with products that used wifi, including laptop and wireless router companies. We won a non-infringement verdict on two of the patents in suit and limited the damages award for the remaining three patents. On

companies. We won a non-infringement verdict on two of the patents in suit and limited the damages award for the remaining three patents. On appeal to the Federal Circuit, we were able to further narrow the verdict. The remaining patents were ultimately defeated on IPR.

Securities and Exchange Commission v. Former Chief Executive Officer

We defended the former CEO of Fannie Mae in an SEC action filed in the Southern District of New York related to Fannie Mae's disclosures regarding its exposure to "subprime" and "Alt-A" residential mortgages. We secured a favorable settlement for our client shortly before trial.

Diabetes Research Restitution, LLC v. Ronald Katz et al.

We secured summary judgment for our client, the former Chairman of a biotech start-up company that tried to develop and commercialize an islet-cell suspension treatment for people with insulin-dependent diabetes. The lawsuit was brought by the company's former CEO and certain shareholders against the company's officers, directors, and creditors and sought over \$100 million in damages.

Scarborough et al. v. Facebook, Inc.

We defended Facebook against a group of plaintiffs seeking to establish a new right under the California constitution's free speech clause to force companies operating social media platforms to publish anti-vaccine posts. In November 2018, we won a ruling striking the complaint under California's Anti-SLAPP statute.

Keller v. Electronic Arts Inc. et al

We secured a favorable settlement for Electronic Arts Inc. (EA) in this groundbreaking antitrust and right of publicity class action. Current and former student-athletes claimed EA improperly used the athletes' likenesses and biographical information in its NCAA Football and NCAA Basketball video games.

Securities and Exchange Commission v. Executive

We defended a former Citigroup executive in one of the rare financial crisis cases to go to trial. Our client worked on the structuring desk at Citigroup and was charged with securities fraud in connection with Citigroup's 2007 marketing of a \$1 billion collateralized debt obligation (CDO) backed by assets tied to the housing market. After a two week trial in the Southern District of New York, a jury rejected the SEC's case and found our client not liable on any of the SEC's claims.

Broadcom Corporation, et al. v. Commonwealth Scientific and Industrial Research Organisation

On behalf of Broadcom, we led a joint-defense group of wireless chip manufacturers, PC manufacturers, and cellular network carriers. The plaintiff, CSIRO, asserted patent claims that allegedly covered a wide variety of products that offer wireless functionality under the IEEE 802.11 standard for local area networks. We settled the case favorably on the eve of trial.

PUBLICATIONS & SPEAKING ENGAGEMENTS

- "Hot Topics in Patent Litigation," BASF, 2017
- "Hot Topics in Privacy Law," BASF, 2016
- "Key Developments in Patent Law," presented with Matthias Kamber, BASF Barristers Club, 2015
- "White Collar Crime and Securities Enforcement," Bar Association of San Francisco, 2015
- "Key Developments in Patent Law," presented with Matthias Kamber, BASF Barristers Club, 2014
- "Securities Enforcement: 2013 in Review," *Bloomberg BNA White Collar Crime Report*, 2014, co-authored with Brook Dooley
- "How Your BA in English Can Help Your Patent Law Practice," BASF Barristers Club, 2013
- "Section 17(a) of the Securities Act of 1933: Unanswered Questions," *Bloomberg BNA Securities Regulation & Law Report*, co-authored with Brook Dooley, 2013

EDUCATION

Harvard Law School, J.D., *cum laude*, 2008

Stanford University, B.A., with honors and distinction, 2005

CLERKSHIPS

Hon. Sandra L. Lynch

U.S. Court of Appeals for the First Circuit, 2008-2009

ADMISSIONS

California

PROFESSIONAL AFFILIATIONS

Executive Committee, Bar Association of San Francisco (BASF) Intellectual Property Section

Board of Directors, Jewish Bar Association of San Francisco

AWARDS & HONORS

Law360 Rising Stars, Telecom, 2021

Harvard Law School

- Executive Editor, *Harvard Law Review*, 2007-2008

Stanford University

- Phi Beta Kappa, 2004