

April 15, 2022

The Honorable Richard Durbin
Chairman
Senate Judiciary Committee
224 Dirksen Senate Office Building
United States Senate
Washington, DC 20510

The Honorable Charles Grassley
Ranking Member
Senate Judiciary Committee
224 Dirksen Senate Office Building
United States Senate
Washington, DC 20510

Re: Intellectual Property Lawyers' Support for The Honorable Nina Y. Wang

Dear Mr. Chairman, Senator Grassley, and Members of the Senate Judiciary Committee:

We write as intellectual property lawyers to express our enthusiastic support for the Honorable Nina Y. Wang to fill the vacancy on the U.S. District Court for the District of Colorado.

While Magistrate Judge Wang's skills and demeanor are perfectly suited to handle all matters that would come before her as an Article III judge, we write to highlight the importance of the unique skillset and perspective that Magistrate Judge Wang would bring to the District Court bench. This skill set is particularly needed here in the District of Colorado, which has a vibrant and thriving technology community and a successful regional office of the U.S. Patent and Trademark Office, but has no Article III judges with technology or intellectual property backgrounds.

First, Magistrate Judge Wang's experience as an intellectual property litigator demonstrates that she is adept at mastering complex and diverse areas of technology. This skill directly benefits the litigants who appear before her in her current capacity, and would be an asset to the District Court bench. Magistrate Judge Wang digs into details of any case without hesitation, learning the most complex aspects of the parties' issues—whether complex discovery disputes, complicated fact patterns, or detailed technology. Magistrate Judge Wang's eagerness to learn also makes her particularly suited to understand the implications of new litigation technologies, for example, new applications of artificial intelligence techniques being applied to document discovery. These issues are evolving rapidly, and are now beginning to come before the Court more often, requiring the Court to not only understand the new technology but also to evaluate the impact of these new tools on the application of the Federal Rules of Civil Procedure.

Second, Magistrate Judge Wang brings unique knowledge of patent, trademark, copyright, and trade secret law and procedure. Magistrate Judge Wang is intimately familiar with the complicated patent law and procedure specific to those cases, including claim construction, validity, indirect liability, and damages. More specifically, Magistrate Judge Wang's experience includes important topics such as *Markman* hearings on claim construction, the implications and policy issues surrounding standard essential patents, and the continually evolving (and controversial) law surrounding patent eligibility under 35 U.S.C. § 101. There is no one else on the District of Colorado bench (Article III or Magistrate Judge) who has this experience.

In addition, Magistrate Judge Wang has direct experience with trade secret cases, including presiding over Defend Trade Secrets Act cases in the District of Colorado. This Act, passed in 2016, has escalated the number of trade secret cases filed in federal court. These cases bring not only technologically complex issues before the court, but also new and evolving procedural issues, such as the process for identifying trade secrets early in the litigation. As a Magistrate Judge, Judge Wang has developed creative and effective processes for litigants to identify the issues to define the scope of these cases as they proceed—a common challenge.

Intellectual property cases are often unique in the procedural implications. For example, many District Courts have instituted local rules tailored specifically for patent litigation. Magistrate Judge Wang has experience not only with the District of Colorado's local patent rules, but also brings perspective from other courts' local rules, including California, Delaware, Illinois, Minnesota, Texas, and Wisconsin, which are among the federal courts in which she has litigated. In addition, Judge Wang has been an active member of the Sedona Conference, which brings together lawyers and federal judges across the country to develop and promote best practices for these complex cases. This experience provides Magistrate Judge Wang the unique knowledge and ability to bring the best practices from around the nation to the District of Colorado.

Third, Magistrate Judge Wang recognizes the importance of intellectual property rights to both individuals and companies. Magistrate Judge Wang has represented parties of all sizes, including not only corporate plaintiffs and defendants, but also individual patent owners. Magistrate Judge Wang will understand the importance of complex litigation to all parties involved, no matter the size or history, and will ensure that the facts and the law are applied accurately, appropriately, and fairly, to examine and enforce the intellectual property rights.

Finally, Magistrate Judge Wang has demonstrated that she will bring dedication and discipline to the cases over which she presides. Since taking the bench just seven years ago, Magistrate Judge Wang has authored nearly 1000 opinions, well over 700 of which appear on Westlaw. Magistrate Judge Wang pays close attention to all of her cases, and runs them with efficiency and fairness. This is important for all cases, and in particular complex intellectual property cases, which often require assistance and mid-case decisions from the Court, for example, *Markman* hearings and orders in patent cases. The ability to keep a busy docket moving and promptly providing written orders and decisions is one of the talents that Magistrate Judge Wang has demonstrated on the bench, and this ability will benefit the District.

In summary, Magistrate Judge Wang would bring a unique skillset to the District of Colorado that will benefit all parties to complex cases, including the growing number of intellectual property cases filed in this district.

Sincerely,
[signatures follow]

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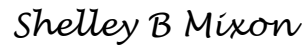


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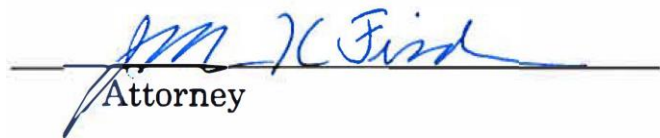
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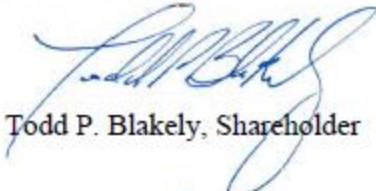

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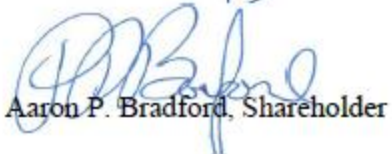
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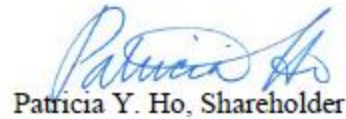
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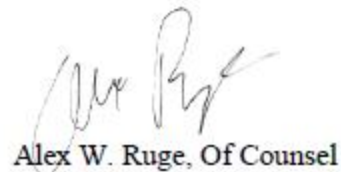
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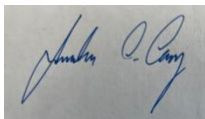
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