



Mark D. Flanagan

PARTNER

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Mark Flanagan's years of advising companies and individuals in California have given him deep experience in a variety of disciplines, including government and internal investigations, intellectual property litigation, international arbitration and commercial litigation. One central skill underlies this range of capabilities: he knows how to litigate cases. Clients rely on the excellent judgment and efficient management style that Mr. Flanagan has honed through years of practice, and trust that he will persuasively marshal the facts and the law to successfully resolve their most complex and important matters.

Investigations and Courtroom Experience

Mr. Flanagan's investigations and courtroom skills have their roots in his tenure as an Assistant United States Attorney (AUSA) in the Central District of California, where he prosecuted cases involving, among other things, bank fraud, federal program fraud and official corruption. As an AUSA, he handled numerous criminal trials, appeals and complex grand jury investigations. He received commendations for his work from the Federal Bureau of Investigation, the United States Customs Service, the Department of Defense Office of Inspector General and the Internal Revenue Service Criminal Investigation Division.

Mr. Flanagan joined WilmerHale in 2006 and has since represented some of the world's most influential technology clients in investigations and litigation in jurisdictions around the world. Recently, he has advised companies on matters relating to data security and privacy, the False Claims Act, immigration fraud and securities fraud. Mr. Flanagan's knowledge extends to investigations by the US Department of Justice, the Federal Trade Commission, the Offices of Inspector General for multiple other federal agencies, and multiple State Attorneys General. Clients know that Mr. Flanagan can strategically and efficiently guide them through internal and government investigations. And clients and government adversaries understand that Mr. Flanagan can take a matter to the mat if necessary.

A Focus on Technology

After more than two decades immersed in work for technology companies, Mr. Flanagan understands the legal, regulatory and business challenges they face. As he has advised these companies, Mr. Flanagan has also become an accomplished intellectual property litigator, and is regularly recognized as one of the top IP litigators in California. Here too, Mr. Flanagan's success springs in large part from his ability to take a tough case to trial. His IP litigation experience has included representation of clients in the software, semiconductor, telecommunications and medical device industries and spans patent and copyright infringement, trade secret misappropriation, Lanham Act and licensing disputes.

Professional Activities

As a member of the Criminal Justice Act Panel in the US District Court for the Northern District of California, Mr. Flanagan regularly represents indigent federal criminal defendants before the court. He also teaches the Cybercrimes and Digital Evidence course at the University of California, Berkeley School of Law. Mr. Flanagan regularly speaks on trial practice, intellectual property and white collar defense topics and is a member of the American Bar Association.

Solutions

Litigation
White Collar Defense and
Investigations
Trials

Intellectual Property Litigation
International Litigation

International Arbitration
Antitrust Litigation

Experience

INVESTIGATIONS

- Representation of companies and individuals in grand jury and Securities and Exchange Commission investigations involving a broad array of potential charges.
- Counseling of clients with respect to their rights, responsibilities and potential exposure on matters related to data privacy and security.
- Representation of clients in matters involving potential violations of Export Control and International Traffic in Arms laws.
- Representation of the Special Committee of the Board of Directors of a publicly held company concerning stock option grants.

IP LITIGATION AND INTERNATIONAL ARBITRATION

- Won international arbitration awards of \$235 million and \$134 million, respectively, in separate patent license disputes before the International Chamber of Commerce (Paris). Both awards were confirmed by the Southern District of New York.
- Won a complete defense verdict in an International Trade Commission patent case on behalf of a Chinese semiconductor foundry. The verdict was affirmed by the Federal Circuit.
- Won a complete defense award on behalf of Chinese technology company in an international arbitration dispute at the Hong Kong International Arbitration Centre against private equity firm.
- Successfully defended the developer of a popular Facebook video game in an ownership and copyright infringement dispute involving allegations of hacking.
- Won the denial of a preliminary injunction in a copyright and trade dress case on behalf of a video game developer accused of infringement. The decision was affirmed by the Seventh Circuit, after which the plaintiff dropped the case.
- Won complete defense verdict in an antitrust and patent case brought by the Federal Trade Commission against the first developer of LASIK laser equipment.

Recognition

- Selected by peers for inclusion in *Best Lawyers in America* for international property litigation (2013–2024) and patent litigation (2024).
- Recognized in the 2007–2023 editions of Northern California *Super Lawyers* for his intellectual property litigation practice, and named one of the "Top 100 Attorneys in Northern California" in 2015 by *Super Lawyers* magazine.
- Named to the *Los Angeles Daily Journal's* exclusive list of the "50 Leading IP Litigators in California" in 2008 and the "Top 75 IP Litigators in California" in 2009–2011.
- Recognized for his international arbitration practice in the 2021 *Lawdragon Global Litigation 500 Guide*.

Credentials

EDUCATION

JD, University of California,
Berkeley School of Law, 1987

*Associate Editor, California Law
Review*

BA, Political Science,
University of California, Los
Angeles, 1984

magna cum laude

Phi Beta Kappa

ADMISSIONS

California

GOVERNMENT EXPERIENCE

Department of Justice

United States Attorney's
Office

*Assistant US Attorney, Public
Corruption and Government
Fraud Unit, Los Angeles,
California*