

Thirty-Eighth Annual Donald C. Brace Memorial Lecture

THE HONORABLE MARILYN HALL PATEL

United States District Court for the Northern District of California

Judge Marilyn Hall Patel has served as a judge on the United States District Court for the Northern District of California, in San Francisco, since August 1980. She was the first woman to sit on the Court in the history of the District, which was established in 1850. She remained the only woman on the court until 1988. She was the first woman to serve as Chief Judge of the Court and held that position from 1997 to 2004. Before joining the federal bench, Judge Patel was a California state judge.

During her years on the bench, Judge Patel has presided over many intellectual property cases ranging from patent to copyright and trademark to trade secret cases. Although best known for her role in the lengthy multidistrict litigation, *In re Napster, Inc. Copyright Litigation*, involving the original peer-to-peer file sharing system, Judge Patel has grappled with other issues in the copyright and technology area, striking down federal export regulations that restrain the transmission of computer encryption programs as unlawful restrictions on the First Amendment (*Bernstein v. U.S. Dept. of State*, 945 F. Supp. 1279 (1996), and 974 F. Supp. 1288 (N.D. Cal. 1997)); holding, in a pre-*Feist* case, that copying only facts and not their manner of expression or arrangement does not infringe copyright (*Black's Guide Inc. v. Mediamerica, Inc.*, 16 U.S.P.Q.2D 1769 (N.D. Cal. 1990)); and ruling that allegations that inaccessibility of blind individuals to a retailer's website so as to deprive them of access to the retailer's stores and services were sufficient to state a claim under the federal Americans with Disabilities Act (*National Federation of the Blind v. Target Corp.*, 452 F. Supp. 2d 946 (N.D. Cal. 2006)). Currently pending before Judge Patel is an action between Real Networks and many movie studios (*RealNetworks, Inc. v. DVD Copy Control Association, Inc.*, No. C 08-04548 MHP), regarding DVD copying. Judge Patel hears all types of civil and criminal cases, and has presided over a number of precedent-setting cases including:

- overtaking the conviction of a Japanese-American who had been interned during World War II;
- finding use of the gas chamber in death penalty cases to be cruel and unusual punishment in violation of the United States Constitution;
- finding that the San Francisco Fire Department discriminated on the basis of race, sex and national origin and ordering its desegregation;
- setting aside the conviction of a defendant who had already served 18 years based upon police misconduct, manipulation of evidence and other constitutional violations.

Judge Patel has been involved in a number of advanced legal education programs in and outside the United States instructing on litigation, civil practice, securities law and intellectual property law as well as a number of other subjects. She has participated in programs conducted by Loyola School of Law (L.A.) and California Institute of Technology delving into the intersection of technology and other important current issues including human genome research, communication and globalization. She has also been one of the initiators of judicial education programs in our state and federal courts dealing with gender bias and equity, which led to the first gender bias studies and commissions in these courts.

Judge Patel received her B.A. degree from Wheaton College in 1959 and her J.D. from Fordham University Law School in 1963.