



INSTITUTE FOR
**Intellectual Property
& Social Justice**

The Honorable Dick Durbin
Chair
Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C., 20510

The Honorable Chuck Grassley
Ranking Member
Senate Committee on the Judiciary
152 Dirksen Senate Office Building
Washington, D.C., 20510

**Re: Letter in Support of Tiffany Cunningham for the
United States Court of Appeals for the Federal Circuit**

May 20, 2021

Dear Chairman Durbin and Ranking Member Grassley:

The Institute for Intellectual Property and Social Justice (IIP SJ) writes to express its support for President Biden's nomination of Ms. Tiffany Cunningham to serve on the United States Court of Appeals for the Federal Circuit (CAFC).

IIP SJ is a non-profit organization established to promote social justice in the field of intellectual property law and practice. IIP SJ works to pursue the social justice promise of intellectual property law by promoting core principles of equitable access, inclusion, and empowerment throughout the IP ecosystem. IIP SJ's work includes scholarly examination of IP law from a social justice perspective; advocacy for social justice in the shaping and implementation of IP law and policy; initiatives to increase the diversity of the IP bar; and programs which promote greater awareness and understanding of IP protection, particularly among historically and currently disadvantaged and underserved groups.

As one of the nation's 13 federal appellate courts, the CAFC is a specialized court with exclusive appellate jurisdiction over patent appeals.¹ If confirmed, Ms. Cunningham would become the first Black judge to sit on the Court. From the evaluation of complex antitrust laws to the treatment of vaccine patents, her historic confirmation would bring invaluable experience and diversity of perspective to a court at the very center of the national innovation infrastructure.

Ms. Cunningham's nomination affirms the proposition that credentialed expertise and race and gender diversity are not mutually exclusive goals. A registered patent attorney and a patent litigation partner in the Chicago, Illinois office of the nationally renowned IP law firm of Perkins Coie LLP, Ms. Cunningham has received the American Bar Association's highest evaluation rating of "Well Qualified"² for appointment to the CAFC. She has practiced with Perkins Coie since 2014, and previously practiced with the firm of Kirkland & Ellis LLP. Ms. Cunningham received her J.D. degree from Harvard Law School in 2001 and her Bachelor of Science in chemical engineering from the Massachusetts Institute of

¹ United States Courts, Court Role and Structure,
<https://www.uscourts.gov/about-federal-courts/court-role-and-structure>.

² American Bar Association Rating Chart,
https://www.americanbar.org/content/dam/aba/administrative/government_affairs_office/webratingchart-117.pdf

Technology in 1998 and enjoys the further distinction of having served as a law clerk to the Honorable Timothy B. Dyk on the CAFC from 2001 to 2002. Ms. Cunningham has been involved in numerous litigations regarding computer science, pharmaceutical, engineering, and technology matters³ and is a registered patent attorney with the U.S. Patent and Trademark Office.⁴

As a member of the CAFC, Ms. Cunningham's contribution to the work of the Court will reflect not only the experience and insight of one the nation's leading patent litigation attorneys but will also enhance the diversity of professional and intellectual perspective essential to judicial oversight of a contemporary and globally competitive IP system. Moreover, the Midwest situs and litigation emphasis of her patent practice incorporates the further benefits of regional inclusivity and juridical sensitivity important to the shaping of the federal bench.

Hegemony in global innovation is directly dependent upon a wellspring of variegated human experience and inspiration. President Biden's nomination of Tiffany Cunningham to the Court of Appeals for the Federal Circuit manifests a major step in ensuring the Court's continued vitality as the penultimate judicial forum in the American innovation ecosystem. A federal judiciary which draws exhaustively from the uniquely diverse talent pool of the American patent bar is one well-equipped to address the complex issues and challenges presented by our continuously evolving technological society. For these reasons, the Institute for Intellectual Property and Social Justice enthusiastically supports Ms. Cunningham's nomination to serve on the United States Court of Appeals for the Federal Circuit.

We look forward to the opportunity to work with the Senate Judiciary Committee to ensure her swift confirmation to the Court. Please feel free to contact Kim Tignor, Executive Director, at Kim.Tignor@IIPJS.org should you have any questions.

Sincerely,

Lateef Mtima
Founder and Director
Institute for Intellectual Property & Social Justice

Kim Tignor
Executive Director
Institute for Intellectual Property & Social Justice

³Warren Woessner, Biden's Nominee to the Fed. Cir. Is Perkins Coie Litigator, <https://www.natlawreview.com/article/biden-s-nominee-to-fed-cir-perkins-coie-litigator>; Perkins Coie, Tiffany P. Cunningham, <https://www.perkinscoie.com/en/professionals/tiffany-p-cunningham.html>.

⁴ Perkins Coie, Tiffany P. Cunningham, <https://www.perkinscoie.com/en/professionals/tiffany-p-cunningham.html>.