

# Daily Journal

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## INTELLECTUAL PROPERTY

Top Lawyers 2023



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Litigation

Jonathan Waldrop knows that many courts are still a bit behind from their pandemic closures and that trial calendars are only recently beginning to fill back up. But his trial schedule is very busy.

"We've seen a continued increase in work and opportunities across the country," Waldrop said. "We know that patent litigation is down nationally, but we've seen bigger cases, cases in which the patents are more serious . . . on both sides, plaintiff and defendant. And we're seeing courts very active in setting trials, particularly in the Western District of Texas."

In fact, he said he has 14 trials scheduled for the rest of this year and next year, though he expects many of the cases will resolve.

One reason for his many cases and trials is that he represents a couple of big patent assertion companies, including one of the largest, WSOU Investments LLC. He represents it in more than 40 patent lawsuits against many companies, including Canon, NEC, Net-Gear and Chinese cellphone maker OnePlus. Together, those cases cover 26 separate patents.

That means he is sometimes scheduled to face the same defendant in multiple trials. "There are so many patents, we . . . can't try all the patents in one case," he said.

Three of his trials are set to take place in quick succession in the fall. The first one in mid-September deals with power controls and sleep functions on computer motherboards. *WSOU Investments LLC v. Xilinx Inc.*, 1:20-cv-01231 (D. Del., filed Sept. 16, 2020).

Later that month, Waldrop is scheduled to take on Salesforce.com Inc. over multiple patents covering "a whole host of client management technologies and messaging applications," he said. *WSOU Investments LLC v. Salesforce.com Inc.*, (W.D. Tex., filed Dec. 18, 2020).

His third scheduled upcoming trial, set for early October, is unusual for him because it does not involve computer hardware or software. It concerns trade secrets about how to safely inject fillers and medications into the human face. *Truinject Corp. v. Galderma S.A.*, 1:19-cv-00592 (D. Del., March 28, 2019).

Waldrop's biggest impact on U.S. patent law in general probably was his representation of Fintiv Inc. in the Patent Trial and Appeal Board case in which the board announced it has discretion to decline to review a patent because a court was already reviewing the same patent. *Apple Inc. v. Fintiv Inc.*, PTAB IPR2020-00019 (PTAB, dec'd March 20, 2020).

The U.S. District Court case that spurred that controversial decision is still alive. "We're hoping to get it set to try this year or early next year," Waldrop said. "So we're moving forward." *Fintiv Inc. v. Apple Inc.*, 1:19-cv-01238 (W.D. Tex., filed Dec. 21, 2018).

—Don DeBenedictis