



2021 TOP INTELLECTUAL PROPERTY LAWYERS

Jonathan K. Waldrop

Despite the COVID-19 pandemic, 2020 was a memorable year for patent litigation.

Last year saw the entrenchment of the Western District of Texas as the preeminent venue for patent filings. Of the 4,060 new patent cases filed, which was the first increase in filings since 2015, 857 were filed in the district.

Waldrop has astutely navigated murky waters to lead Kasowitz Benson Torres' Silicon Valley office to the forefront of patent practice. News of patent litigation's demise, he said, has been overstated.

"We've seen a dramatic shift, and the industry has responded to that," he said.

Representing mobile commerce platform Fintiv Inc. in a lawsuit against Apple Inc. over allegations it infringed patents relating to the management of virtual cards on phones, Waldrop convinced the Patent Trial and Appeal Board to deny Apple's petition to review the validity of his client's intellectual property.

PTAB agreed with Waldrop's arguments that review should be denied because of the advanced stage of underlying proceedings in federal court. It was the first time that the board issued discretionary denial based solely on that reason.

"It was kind of like gumbo in a sense," Waldrop said, referring to PTAB's order. "I know some people feel like it was the trial date that was the dispositive issue, but who knows? It also commented on the quality of the art." The order has been designated as precedential, outlining the factors PTAB considers when

patent owners seek discretionary denial of review. *Fintiv, Inc. v. Apple Inc.*, 19-CV01238 (W.D. Tex., filed Dec. 21, 2018).

A trial is scheduled to start on Oct. 4 before U.S. District Judge Alan B. Albright, who now oversees nearly 20% of all patent cases and who Waldrop regularly practices before.

The veteran patent and trademark litigation attorney represents companies that handle interactive web technologies, video-on-demand communications and cable technology.

Waldrop is also one of the few attorneys who has worked a jury trial during the pandemic. He represented MV3 Partners LLC in a lawsuit alleging that Roku Inc. infringed on a patent over streaming technology. *MV3 Partners LLC v. Roku Inc.*, 18-CV00308 (W.D. Tex., filed Oct. 16, 2018).

Although the seven-person jury returned a defense verdict, Waldrop emphasized the significance of adapting to the uncertainty magnified by unprecedented changes forced by the COVID-19 virus and its impact on jury trials.

"You have to be much more nimble and flexible," he said.

Some of the adjustments, including conducting remote depositions and arguing substantive motions in video proceedings, will remain, Waldrop said, noting substantial cost savings for clients.

He said his team has "definitely exceeded my expectations and gotten better."

Waldrop has moved for a new trial for s Partners because of Roku's allegedly improper testimony.



**Kasowitz Benson Torres
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Redwood Shores**

**SPECIALTY:
Patent Litigation**

He also argued the process to interpret the patent's disputed claims did not properly clarify their meaning, leading the jury to misunderstand them.

— Winston Cho