

John H. McDowell, Jr.

ATTORNEY, PARTNER

John McDowell is a first-chair trial lawyer hired for complicated, large-scale litigation in Courts across the United States. John has more than 30 years' experience working in a broad range of industries, with recent engagements centering in the transportation, movie production, entertainment, telecommunications, technology, energy, hospitality and healthcare sectors. John's clients' most pressing horizon issues include offensive and defensive intellectual property and competition strategies. His approach is direct and practical, always guided by the clients' ultimate goals.

John has represented clients in some of the largest patent infringement cases in the United States, including, by example, recurring smartphone, smart meter technology, check imaging and drug and medical device litigation.

John's legal career has been at major international firms. He has chaired Litigation Sections at his firms. He has served on firm Policy Committees (the firms' governing bodies) and Partners Committees (the firms' partner compensation committees). John has served as Loss Prevention Partner, Technology Partner and has led various technology initiatives at prior law firms.

John brings the best of big firm experience to zealously representing clients in state and federal courts across the country. John now represents a wider range of deserving clients with the more focused attention achieved at a smaller firm.

John is a member of Stanford Associates and served on the Alumni Council of the University of Virginia School of Law. John is a member of the Court Advisory Committee of the United States District Court of the Northern District of Texas. John is in leadership of the Honorable Barbara M. G. Lynn American Inn of Court. John has been active in Bar activities at the local and nationwide levels.

Bar Admissions

- Texas

Court Admissions

- U.S. Court of Appeals, 5th Circuit
- U.S. District Court, Eastern District of Texas
- U.S. District Court, Northern District of Texas
- U.S. District Court, Southern District of Texas



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CORE SERVICES

- Antitrust Counseling
 - Commercial Litigation
 - Copyright Litigation
 - Cybersecurity Counseling
 - IP Counseling and Licensing
 - Patent Litigation
 - Trademark Litigation
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- U.S. District Court, Western District of Texas
- U.S. Supreme Court

Education

- University of Virginia School of Law (JD, 1982)
- Stanford University (BA, 1979)

Honors and Awards

- AV Preeminent, Martindale Hubbell
- Best Lawyers in America, Woodward/White, 2009-Present
- Best Lawyers in Dallas, D Magazine, 2008-Present
- Texas Super Lawyers, Thomson Reuters, Intellectual Property Litigation, 2004-Present
- Top Attorneys, Texas Super Lawyers, Thomson Reuters, Corporate Litigation, 2009-Present
- Patent Star, IP Stars Handbook, Managing Intellectual Property, Corporate Litigation, 2016-Present

Associations

- American Bar Association, Litigation Section, Antitrust Committee, Co-Chair, 2006-2009
- American Bar Association, Litigation Section, Trial Evidence Committee, Co-Chair, 2009-2011
- American Bar Association, Litigation Section, Jury Innovations, Co-Chair, 2011-2013
- American Intellectual Property Law Association, Antitrust Committee 2011-2013
- Dallas Association of Young Lawyers, President, 1991
- Dallas Association of Young Lawyers Foundation, Chair, Fellows Program, 2009
- Dallas Association of Young Lawyers Foundation, Life Founding Fellow
- Dallas Bar Association, Antitrust and Business Litigation and Intellectual Property Sections, 1983-present
- Dallas Bar Association, Director, 1990-1991
- Dallas Bar Foundation, Fellow
- State Bar of Texas, Antitrust and Business Litigation Section
- Texas Bar Foundation, Fellow
- Texas Young Lawyers Association, Director, 1991-1993
- The Honorable Barbara M.G. Lynn American Inn of Court, Master, 2012-present, Treasurer 2017-18, Secretary 2018-19
- Union Internationale Des Avocats, Member, Author and Speaker, Litigation Commission
- Union Internationale Des Avocats, Member, Author and Speaker, Competition Commission
- University of Virginia School of Law, Alumni Council, 2015-2018
- Stanford Associates, Member, 2015-2018

Publications

- The 10 Things You Must Know About Patent Litigation in 2017 (February 14, 2017)
- Higher HSR Reporting Thresholds Effective February 27, 2017 (January 26, 2017)
- FTC Releases Report on Patent Assertion Entities, Calls for Reforms to Reduce Nuisance Patent Lawsuits (October

11, 2016)

- Arbitrator's Manifest Disregard of the Law is No Basis for Vacating Arbitration Award – So Rules the Supreme Court of Texas (June 2, 2016)
- Author, "Collaboration Among Competitors and Standards Setting in the United States," course materials for the Competition Law Commission of the Union Internationale des Avocats 55th UIA Congress (2011)
- Author, "Antitrust 101: Section 1 of the Sherman Act," Antitrust Litigation, Newsletter of the ABA Section of Litigation Antitrust Committee (2007)
- Author, "Strategy in Question: The Supreme Court Weighs Antitrust Procedures," ABA Section of Litigation Update, February (2007)
- Co-author, "Effective Markman Presentations," chapter in *Winning Intellectual Property Strategies*, Aspatore Books (2006)
- Quoted in "Meet the new king of patent litigation (sorry, East Texas)" *The Texas Lawbook* and *Dallas Business Journal* (September 22, 2017)
- Quoted in "EDTX Judge Pick Would Aid Short-Handed Patent Hotbed," *Law360*(March 28, 2016)
- Quoted in "Hope Shimabuku Takes Over as New USPTO Director," *The Texas Lawbook* (January 4, 2016)
- Numerous prior publications, focused on intellectual property, antitrust and other complex litigation areas

Presentations

- Panelist, NDTX Bench Bar Conference IP Breakout Panel: Developments in IP Litigation in the Northern District of Texas (January 12, 2018)
- Case in Point Webinar Series: The 10 Things You Need to Know About Patent Litigation in 2017 (February 14, 2017)
- Speaker, "Apple vs. Samsung," Litigation Commission of the Union Internationale des Avocats 57th UIA Congress (2013)
- Moderator, National Conference of State Trial Judges and Commission on the American Jury Project Town Hall (2012)
- Speaker, "Antitrust Aspects of Agreements Between Competitors," 55th Congress of the Union Internationale des Avocats (2011)
- Moderator, "Top 10 Privilege and Privacy Blunders in the Digital Age," ABA Section of Litigation Conference (2011)
- Moderator, "The Ten Things Every Patent and Antitrust Practitioner Must Know After Recent Supreme Court Decisions," ABA Section of Litigation (2007)
- Author and Lecturer, "Patent Law and Litigation in the United States," SMU Cox Business School MBA Program (2007)
- Moderator, "Antitrust and Intellectual Property Trends in the Supreme Court," A Conversation with Deputy Solicitor General Thomas Hungar, ABA Litigation Section Teleconference Services (2006)
- "Strategies to Ensure Effective Markman Presentations," Firm-sponsored IP seminar (2006)
- Panelist, Texas Lawyer Intellectual Property Roundtable (2006)
- Guest Lecturer, "U.S. Intellectual Property Law Update 2005," SMU Cox School of Business EMBA Program (2005)
- "Trends in Litigation Management and Dispute Resolution," Counsel to Counsel Forum (Houston, Texas) (2005)
- "The Nine Antitrust Developments You Should Know About Today," The Texas General Counsel Forum (2005)
- "Antitrust and Patent Law," Forbes Sky Radio, (2004)
- "Record Retention and Destruction — The Andersen Issue, Technology Pitfalls, and Other Lessons," 2002 Annual Tax Symposium (Dallas and San Antonio, Texas)
- "Intellectual Property and e-Law" (guest lecturer), SMU Cox School of Business EMBA Program (2000 - present)
- "Protecting Your Intellectual Property" (workshop co-presenter), SMU Cox School of Business (Caruth Institute), e-Startup: How to Launch The Next Great Internet Company (2000)
- "Internet Resources," Texas Association of Defense Counsel (2000)
- Numerous prior speeches on complex substantive issues

Representative Experience

Patent Litigation

- Defended client cell phone manufacturer in numerous patent cases across the United States
- Defended client energy and water smart grid and smart meter manufacturer in patent matters
- Defended client electronics manufacturer in various patent cases
- Defended client communications corporation in patent matters
- Defended client international telephone network and software company in various patent-related proceedings
- Represented patentee in sale of patent portfolio (cloud computing)
- Obtained dismissal of defendant presbyopia-correcting-surgery patent holder from federal court declaratory judgment action alleging patent invalidity (lack of case or controversy)
- Negotiated numerous early settlements for various defendants in patent litigation to achieve clients' desired results by utilizing cost-effective and tailor-made strategies to achieve clients' goals
- Served as expert witness in patent litigation malpractice case

Non-Patent Intellectual Property Litigation

- Represented manufacturers in piracy cases
- Represented clients in trademark and trade dress litigation
- Represented clients in trade secret litigation
- Represented companies and individuals in trade secret litigation focused on non-disclosure and confidentiality provisions
- Represented clients and counseled clients on antitrust issues and counterclaims in various intellectual property litigation
- Represented various clients in copyright disputes
- Represented clients in cutting edge copyright and trademark cases of first impression at the intersection of copyright and trademark law and cutting edge technology

Healthcare Litigation

- Represented an individual owner and food and drug manufacturing companies in a jury trial against prior management on fraud, tort and contract theories (obtained six figure damages jury verdict and permanent injunction and prevailed (no liability verdict) on all counterclaims)
- Defended healthcare utilization review company at jury trial where multi-million dollar medical malpractice damages claimed by plaintiff myocardial infarction patient (obtained no liability jury verdict)
- Obtained dismissal of defendant presbyopia-correcting-surgery patent holder from federal court declaratory judgment invalidity action alleging patent invalidity (lack of case or controversy)
- Represented Medicare contractor through two trials and appeal (upholding sovereign immunity of Medicare contractor)
- Obtained favorable settlements for a drug and medical device company in patent and co-licensing disputes
- Counsels healthcare company in competition matters involving group purchasing

Financial Services Litigation

- Represented leasing company in a bench trial and defended against usury claims affecting multi-hundred million-dollar lease portfolio (obtained judgment for leasing company for all amounts sought and obtained zero judgment on usury counterclaim)
- Represented national bank in a nationwide consumer class action against lender alleging violations of RESPA (obtained dismissal prior to class certification)
- Represented numerous financial institutions in class action, patent and lender liability cases

Technology Litigation

- Defended client cell phone manufacturer in patent cases across the United States
- Defended client energy and water smart grid and smart meter manufacturer in patent matters
- Represented hospitality industry clients in copyright claims associated with publication via social media and defenses based lack of product functionality to satisfy prima facie elements of copyright law
- Represented oil and gas industry client in copyright action based on electronic publication subscriptions
- Counseled banking institutions and businesses on technology provisions in information technology contracts, avoiding litigation
- Successfully settled disputes for software and hardware provider facing demands from client as to anticipatory failure issues
- Obtained favorable settlement of claims for data processing company with respect to claimed misrepresentation in purchase of outsourced business
- Represented numerous clients in commercial litigation involving cutting edge electrical and biological technologies

Hospitality Litigation

- Obtained judgment against plaintiff over fraudulent pre-purchase of hotel rooms by third party
- Represented client hotel management company in litigation brought by property owner for mismanagement
- Represented hotel flag in copyright defense matter
- Represented hotel flag in further room pre-purchase disputes
- Represented owners, management companies and flags of hotel properties in various litigation, including claims for improper management, deidentification (de-flag), fraud, copyright and trademark infringement and other issues involving the business of the hospitality industry

Complex Commercial Litigation

- Obtained judgment against ex-officer over severance package dispute
- Obtained temporary restraining order for oil and gas company (prevented operator from shutting in natural gas wells)
- Obtained a take-nothing arbitration award on behalf of client insurance broker against claims of international insurance company (two-week arbitration resulted in no-liability award)
- Obtained a temporary restraining order for multi-level marketing company (funds on deposit in defendant bank ordered to be relinquished to company)
- Defended against an application for temporary injunction related to significant sales territory (temporary injunction not issued and TRO lapsed after hearing)
- Obtained summary judgment on key damage and liability claims and favorably settled \$200 million plus claim for multi-national power tool manufacturer
- Represented numerous clients in temporary restraining orders, temporary preliminary injunctions and permanent injunction practice in federal and state courts
- Negotiated with various governmental agencies on behalf of clients