



McKool Smith  
300 W. 6th Street  
Suite 1700  
Austin, TX 78701  
Tel: 512.692.8731  
Fax: 512.692.8744

#### EDUCATION

- J.D., with Honors, Duke University School of Law, 2002. Senior Editor, *Journal of Law & Contemporary Problems*. Topic Editor, *Duke Law and Technology Review*.
- Ph.D., Microbiology and Immunology, The University of Texas Medical Branch, 1999.
- B.A., Biology, The Johns Hopkins University, 1993.

#### COURT ADMISSIONS

- State of Texas
- The U.S. District Court for the Eastern and Western Districts of Texas

#### BAR ADMISSIONS

- Federal Circuit Bar Association

## JOHN GARVISH

### ASSOCIATE

John Garvish is an Associate in the Austin office of McKool Smith whose practice deals with intellectual property and complex commercial litigation.

Prior to joining McKool Smith, Dr. Garvish served as a judicial clerk for the Honorable Alvin A. Schall of the United States Court of Appeals for the Federal Circuit from 2002 – 2003. Dr. Garvish has published in the areas of molecular biology, biochemistry, and patent law. Dr. Garvish has taught courses in Genetics, Toxicology, and Pharmacology. Dr. Garvish has also presented an invited lecture on patent law and its interplay with biotechnology and has been involved in panel discussions regarding the current state of patent law from a former Federal Circuit clerk's perspective.

#### REPRESENTATIVE MATTERS

**Ciphergen Biosystems, Inc.** *Health Discovery Corporation v. Ciphergen Biosystems, Inc.* Represented Ciphergen in the defense of allegations of patent infringement. The alleged infringed patents are directed to the use of learning machines for examining differential protein expression in the search for biomarkers to use as either drugs targets or for use in designing diagnostic tests. The case was originally filed in the Eastern District of Texas. We successfully moved for a transfer of venue to the Northern District of California. Once in California we drafted a motion for disqualification of Health Discovery Corporation's counsel and a motion for summary judgment of invalidity on the asserted patents. The case settled prior to the case management conference on terms favorable to our client.

**Repligen Corp. and The Regents of the University of Michigan.** *Repligen Corp. and The Regents of the University of Michigan v. Bristol-Myers Squibb Company.* Represented Repligen and the Regents of the University of Michigan in a patent infringement action related to a treatment for rheumatoid arthritis that involved competitive inhibition of the costimulatory signal required for T-helper cell activation. This case involved Bristol-Myers Squibb's Orencia product and settled favorably for our clients.

**Medtronic, Inc.** Current and/or prior representation of Medtronic in several matters involving cardiovascular stents and pacemakers.

**Novartis Vaccines & Diagnostics.** *Novartis Vaccines & Diagnostics v. Hoffman-La Roche Inc. et al.* and *Novartis Vaccines & Diagnostics v. Wyeth and Wyeth Pharmaceuticals, Inc.* Representing Novartis Vaccines & Diagnostics in separate patent infringement actions involving a treatment for AIDS and a treatment for Hemophilia A. These cases are ongoing.

**Novartis Vaccines & Diagnostics and Novo-Nordisk.** *Novartis Vaccines & Diagnostics and Novo-Nordisk v. Bayer Healthcare, LLC, Bayer AG, and CLS Behring, LLC.* Representing Novartis Vaccines & Diagnostics and Novo-Nordisk in a patent infringement action involving a treatment for Hemophilia A. The case is ongoing.

**The Rockefeller Univ. and Chiron Corp. (now known as Novartis Vaccines & Diagnostics).** *The Rockefeller Univ. and Chiron Corp. v. Centocor Inc. and Abbott Laboratories.* Represented The Rockefeller University and Chiron in patent infringement litigation related to antibody based therapy for certain autoimmune disorders. This case settled favorably.

**Holly Corporation.** *Frontier Oil Corporation v. Holly Corporation.* Represented Holly Corp. in a breach of contract action that resulted from a failed merger with Frontier Oil Corp. Frontier Oil Corp. sued Holly Corp. claiming that Holly Corp.'s breached a merger agreement and that Holly Corp.'s breached resulted in hundreds of millions of dollars of damages to Frontier Oil Corp. Holly Corp. counterclaimed asserting that Frontier's filing suit was the actual breach of the merger agreement. The case was tried in Delaware Chancery Court resulting in a finding of no liability for our client Holly Corp.

**Luminex Corp.** Representing Luminex in patent due diligence related matters related to high throughput fluorescence based testing technology.

## **PROFESSIONAL ACTIVITIES**

Austin Intellectual Property Law Association; American Intellectual Property Law Association.

## **ARTICLES**

- Active-site Determination of a Pyrimidine  
*Journal of Molecular Biology,*
- Chlorella Virus Pyrimidine Dimer Glycosylase
- The Catalytic Mechanism of a Pyrimidine Dimer-specific  
*THE JOURNAL OF BIOLOGICAL CHEMISTRY,*
- The Clone Wars: The Growing Debate over Federal Cloning Legislation  
*Duke Law and Technology Review,*