

## Rising Star: McKool Smith's Nick Mathews

By Tiffany Hu

*Law360 (July 7, 2020, 3:13 PM EDT)* -- Nicholas Mathews of McKool Smith PC has secured several victories on behalf of Ericsson, including a defense verdict in HTC Corp.'s patent dispute over standard essential patent licensing fees, earning him a spot among the intellectual property attorneys under age 40 honored as Law360 Rising Stars.

### ***HIS BIGGEST ACHIEVEMENT:***

Ericsson was sued by HTC in April 2017 over accusations it breached obligations to license its cellular patents on fair, reasonable and nondiscriminatory, or FRAND, terms. The suit was later amended to add claims that Ericsson violated antitrust law by working with other large standard-essential patent holders to manipulate the standards-setting process.

Following a five-day trial in February 2019, a Texas federal jury returned a verdict largely in favor of Ericsson, rejecting HTC's allegation that Ericsson's proposed per-phone royalty rate violated its contractual obligation to offer licenses on FRAND terms. The verdict is currently on appeal.

Mathews, who represented Ericsson at trial and continues to do so on appeal, said he counted this as one of his biggest cases. It was, "at its core, a simple breach of contract case," but it involved complex issues in French law, cellular technology, and economic theory, and also included several witnesses, he said.

"Our team at McKool was just great," Mathews said. "Everyone worked well together, we put on a really good trial, and I was happy to get the result."

### ***OTHER NOTABLE CASES:***

Mathews also represented Ericsson in TCL Communication Technology Holdings' lawsuit accusing it of breaching its obligation to offer licenses for its worldwide portfolio of patents essential to 2G, 3G and 4G wireless standards on FRAND terms.



**Nick Mathews**  
McKool Smith

Age: 37  
Home base: Dallas  
Position: Principal  
Law school: Indiana University Maurer School of Law  
First job after law school: Clerkship for U.S. District Judge Rodney Gilstrap of the Eastern District of Texas

A California federal judge previously ruled that Ericsson had breached its obligations. U.S. District Judge James Selna's ruling established the rate for future payments, but in December the Federal Circuit threw out the judge's rate, finding the district court violated Ericsson's constitutional right to a jury trial.

Mathews also helped Ericsson secure a \$75 million trial verdict in a separate case against TCL over patented smartphone security technology. Enhanced damages and interest later brought the judgment to \$110 million.

"That was a big case, one of my first — if not my first — jury verdict where I was putting on witnesses at trial," Mathews said. The McKool team is currently appealing the Federal Circuit's decision in April that invalidated the patent and threw out the judgment.

#### ***WHY HE'S A PATENT ATTORNEY:***

Mathews said that he has "always had an eye toward law school," adding that he got his engineering degree at Villanova University because he thought it would help him become an effective patent lawyer.

In addition to Ericsson, Mathews has worked with other telecommunications clients like Nokia and AT&T, as well as clients in the industrial automation sector, he said.

"The stakes are high and it's very competitive, which I like," Mathews said. "At the end of the day, there's nothing better than delivering a hard-fought win for your client."

#### ***WHAT MOTIVATES HIM:***

After graduating law school in 2009, Mathews clerked for U.S. District Judge Rodney Gilstrap of the Eastern District of Texas during his first year on the bench. He said that seeing how Judge Gilstrap "ran a courtroom and how he expected it to be run" motivates him to meet those expectations.

And at McKool, where Mathews has been for more than seven years, "great attorneys" who are willing to dish out advice — like Ted Stevenson, also of the firm's Dallas office — have pushed him to become better, Mathews said.

"When you see someone like that perform at a high level, over and over again, it motivates me to try to live up to that same standard," Mathews said.

— As told to Tiffany Hu

*Law360's Rising Stars are attorneys under 40 whose legal accomplishments belie their age. A team of Law360 editors selected the 2020 Rising Stars winners after reviewing more than 1,300 submissions. Attorneys had to be under 40 as of April 30, 2020, to be eligible for this year's award. This interview has been edited and condensed.*