

## Trial Aces: McKool Smith's Douglas Cawley

By Jessica Corso

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He's spent more than 30 years in the courtroom and keeps daily tabs on the latest in intellectual property law, but friends and colleagues say you can chalk Doug Cawley's more than \$1 billion in patent victories up to his way of wooing juries.

"I kid him about his hair," Tom Melsheimer of Fish & Richardson said of the Law360 Trial Ace, "and how he uses that to appear to be the coolest guy in the courtroom."

With a rare head of long hair for a Texas attorney and a "cool demeanor" in the courtroom, "you sort of get the impression that he could talk about surfing," Melsheimer added.

But what Cawley talks about is far more complex than surfing, and he's been very successful at it.

In his 13 years with McKool Smith PC, Cawley has several high-profile victories against some of the titans of the technology industry.

A 2007 challenge against Microsoft Corp. led to a \$290 million jury verdict in favor of the much smaller Canadian company i4i Limited Partnership that was later affirmed by the U.S. Supreme Court. It is the largest patent victory affirmed by the Supreme Court to date, according to McKool Smith.

Cawley, who was i4i's lead counsel at district court, says he was proud when the high court upheld the "hard-fought" verdict.

"You have not only the fact that it's a tiny company versus Microsoft — a giant — but it's a foreign company against an American company," Cawley explained. "They had a lot of obstacles to overcome."

But those are the kind of obstacles Cawley is used to as his list of victories is replete with multimillion-dollar verdicts won against some of the deepest pockets in the corporate world.



Douglas Cawley

One of his favorites was also one of his first major jury verdicts, Cawley said. In 2007, Cawley led a McKool Smith team that won a \$156 million verdict against AT&T Corp. in favor of TGIP Inc. It was, at the time, the largest jury verdict ever handed down in the Eastern District of Texas, according to the firm.

Though the verdict was shortly thereafter overturned by a district court judge, the case eventually settled at trial for an amount Cawley said changed the lives of the two people who ran TGIP.

“One of the beautiful things about the courtroom is that it’s a great leveler,” Cawley said. “It’s a place where an individual who is in the right can go and do battle against even the giants of industry and get fair treatment.”

Fairness is a theme that appeared time and again in discussions with Cawley’s colleagues, who say the attorney’s honesty in the courtroom has earned him a positive reputation with judges.

“His reputation with judges is excellent because he is a straight shooter,” said Melsheimer, who has known Cawley for 20 years, often as an opponent. “He’s someone that does not exaggerate, someone that does not misstate the law, someone that doesn’t come across too strong.”

Frank Vecella of Ericsson Inc., who has worked with Cawley for more than 15 years, agreed.

“Judges know if Doug makes a promise to them, they can count on it,” Vecella said. And Vecella suspects Cawley’s reputation with judges gives him a boost in front of juries who “can tell what the judges think of the different trial lawyers.”

Cawley’s way with juries is “something to behold,” Vecella said, as the laid-back lawyer has earned a reputation for stripping complex patent terms down in a way that is understandable to an audience who may not be tech-savvy.

“Doug is a natural storyteller,” Vecella said. “He exhibits the exact same personality and demeanor when he’s standing up in a court addressing a jury as he does if you were having a beer with him at a bar.”

He has used those storytelling abilities to win several cases on behalf of Ericsson, a company Cawley has represented since before Vecella — now associate general counsel at the company — came onboard.

When Vecella joined up with Ericsson, Cawley was working with Dallas firm Hughes & Luce LLP, and Vecella could just not stop gloating about him in front of McKool Smith founding partner Mike McKool, another one of Ericsson’s outside attorneys.

At a Christmas party at Vecella’s house in 2001, McKool pulled Cawley aside and suggested the pair have lunch to talk about Cawley’s future. It was after that lunch Cawley decided to leave Hughes & Luce for a role as principal at McKool Smith.

Though Vecella says he doesn’t want to take all the credit for Cawley’s new position — McKool and Cawley began their legal careers in the same firm and had already known each other for years — he says he does believe he had a large part to play in getting Cawley the job.

“Mike told Doug, ‘I’m sick and tired of hearing my client Ericsson brag about how great you are, you

need to come work for us,” Vecella said.

Among the victories Cawley won for Ericsson was the first suit the Swedish company ever sent to a jury verdict in its 100-plus-year history, according to Vecella.

Ericsson’s witnesses, all of whom were nonnative English speakers, were nervous to appear on the stand, Vecella said.

They shouldn’t have been, suggested McKool Smith associate Richard Kamprath, because one of the things Cawley is best at is questioning witnesses.

“Doug does a great job of asking questions that he thinks the jury would want to know about what the witness would say,” Kamprath said.

Kamprath, a relative newcomer to the legal world, said watching Cawley try a case on behalf of ParkerVision Inc. against Qualcomm Inc. was a good example of that. In order to win over the jury in that case, Cawley had to ask technical experts for detailed explanations of complicated technology while anticipating what explanations might confuse an average person, Kamprath said.

It worked. In 2013, a jury awarded ParkerVision **\$173 million** for Qualcomm’s direct and indirect infringement of four smartphone circuit technology patents. That verdict was later overturned by a district court judge and then sent to the Federal Circuit, which **refused** in July to revive the suit.

But Melsheimer says Cawley doesn’t let those setbacks get him down.

“Doug has been around the block enough and tried enough cases to know that there’s no reason to get too high when you’ve won, and there’s certainly no reason to get too low when you’ve lost,” Melsheimer said.

Perhaps one day, Cawley’s coolness under fire could lead him to a higher calling, Kamprath suggested.

“We joke sometimes, half joking, half serious, that if Doug ever ran for president, he’d be a great president of the United States,” Kamprath said.

--Editing by Chris Yates and Christine Chun.