

Big verdicts for McKool

Growing law firm in need of more space

BY BILL HETHCOCK / STAFF WRITER

Dallas attorney Mike McKool believes in working and playing hard. When he's not duking it out in the courtroom or preparing for trial, he's likely indulging his passion for cross-country motorcycle racing.

Speeding across rough terrain is both physically grueling and strangely relaxing, McKool said. "When you're doing a physical activity that requires 100 percent of your attention, it's stress-relieving," he said.

The attorney sees parallels between racing motorcycles and being a trial lawyer.

"Your competitive juices flow in both places," he said, "and preparation is a big part of both of them."

That preparation appears to be paying off. A string of high-dollar verdicts — against big defendants such as Microsoft Corp. and the National Football League — is fueling growth for his firm, McKool Smith PC. So much so, the company is mulling its real estate options more than four years before its lease runs out at the Crescent.

McKool said the firm likes its Uptown Dallas digs, but is looking at developing a building of its own or being the lead tenant in a to-be-built structure. It currently leases about 100,000 square feet in the Crescent, where it's the largest tenant. The lease expires in late 2014.

McKool says the firm will stay in Dallas, and has its eye on the Arts District or the Victory area if it does move.

McKool Smith will likely be in the market for 120,000 to 150,000 square feet of office space, depending on an analysis that's now under way, said the firm's broker, John Amend, president of The Amend Group. Among the buildings McKool Smith will consider are two towers in the Arts District being planned by developers Craig Hall and Lucy Billingsley, Amend said.

The broker said McKool Smith has to start its search more than four years before its lease expires in the Crescent because it takes that long to sort through the options and decide whether a new building is the best choice. If the firm decides to go into a new building, it will take more than two years to finance and construct it, Amend said.

McKool and Phil Smith founded the firm that bears their names in 1991 with 11 lawyers in Dallas. Today, it has more than 125 lawyers nationwide, with offices in Dallas, Austin, Houston, New York, Washington, D.C., and Marshall, where the U.S. District Court for the Eastern District of Texas is known for quickly resolving high-stakes commercial disputes.

Forty of the firm's lawyers were added in the last two years, McKool said, and about 70 are based in Dallas.

The firm, which is best



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BIG WINS: McKool Smith partner Mike McKool said his firm has won four of the country's top 100 verdicts for two years straight.

known for its patent litigation work, won four Top 100 courtroom verdicts in 2008 and another four in 2009 — more than any other firm in the country, according to research compiled by VerdictSearch, which tracks U.S. verdicts.

"We're the only firm in history that has won the most Top 100 verdicts for two years in succession," McKool said. "It's never been done before."

The 2008 verdicts ranged from \$21 million to \$250 million and added up to \$358 million. The 2009 verdicts ranged

from \$19 million to \$290 million and totaled \$467 million.

Two recent big-ticket wins — the \$290 million verdict last year and a \$106 million verdict in March — were patent infringement cases against Redmond, Wash.-based software giant Microsoft Corp.

'Aura of perfectionism'

McKool wants to diversify into pharmaceutical litigation; he sees promise as battles between generics and name-brand medicines escalate. He also sees white-collar crime and bank-

MCKOOL: Real estate options include new towers in Dallas' Arts District



AMEND: 'Sizing is something (Craig Hall) is actively considering right now, and my encouragement to him is, don't build too little.'



HALL: 'McKool Smith is among several prospects in the market considering their options.'

ruptcy as areas in which the firm will expand.

The firm plans to add an office in Northern California because demand for its patent litigation services is increasing in the research-and-development hotbeds of Silicon Valley and San Francisco. McKool would like to add a 25-lawyer office there through a merger or by hiring top attorneys from other San Francisco-area firms, he said.

McKool said the firm focuses on hiring the best lawyers, setting high standards and keeping an intense focus on teamwork.

"We have a real aura of perfectionism," he said. "It's a firm where good enough is just not good enough."

EYING BUILD-TO-SUITS

With its rapid growth, the firm is running out of room at the Crescent. In addition to an Uptown expansion, McKool Smith is evaluating build-to-suit options in the Arts District, including the Hall and Billingsley projects.

Hall, founder of Hall Financial Group, aims to develop a mixed-use tower in the block bounded by Flora, Crockett and Leonard streets and Ross Avenue. Plans call for 400,000 to 600,000 square feet of office space and ground-floor restaurant space, with a \$120 million price tag.

Hall said he'd love to do business with the law firm.

"I think very highly of McKool Smith and Mike McKool is a terrific leader in our community," he said.

According to Hall, the firm is among several prospects in the market for space. The developer said he'd need a tenant or two to prelease a minimum of 200,000 square feet — or more for a larger building — before kicking off construction.

Another option for McKool Smith is the 22-story Two Arts Plaza, to be developed by Billingsley Co. It will sit next to One Arts Plaza, a \$150 million, 24-story, 1.1 million-square-foot tower at Routh and Flora streets.

Billingsley was unavailable for comment this week, but she has said in the past that construction on Two Arts could move forward if the company lands a lead tenant that preleases more than 100,000 square feet.

One Arts Plaza is fully leased, with major tenants including 7-Eleven Inc. and Thompson & Knight LLP.

The unpredictability of law firms' revenue from year to year, and the fact that law firms operate on a cash basis, make it challenging to kick off construction of a new building with only a law firm as a lead tenant, said Hunter Blanks, a Colliers International office broker who specializes in law firms.

Blanks represented Thompson & Knight in its lease at One Arts Plaza, and said that deal would have been almost impossible to get done if 7-Eleven hadn't also committed to the building.

COST NOT BIGGEST FACTOR

Unlike many tenants now in the market, cost won't be the top consideration in deciding where McKool Smith ends up next. The law firm's associates



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Mike McKool
McKool Smith PC

PREVAILING IN COURT

Recent wins for McKool Smith include:

■ A U.S. District Court this March awarded **\$106 million** in damage to Scotts Valley, Calif.-based **VirnetX Holding Corp.** as part of a judgment against **Microsoft Corp.** for infringing on two VirnetX patents.

■ Jurors in 2009 awarded **\$290 million** in damages to Toronto-based technology company **i4i Inc.** after finding **Microsoft's Word software** violated one of the Toronto company's patents.

■ McKool Smith in 2009 won a **\$138 million** patent infringement verdict for Austin-based enterprise software maker **Versata Software Inc.** against global software provider **SAP AG.**

■ The law firm in 2009 won a **\$20 million** jury verdict for the **City of San Antonio** and **more than 170 Texas cities** in a class-action lawsuit over unpaid hotel occupancy taxes.

■ A San Francisco jury in 2008 awarded a **\$28.1 million** verdict against the **National Football League Players Association** and its licensing and marketing division after finding the association breached fiduciary duty by failing to market retired players' licensing rights under group licensing authorization contract covering the licensing of electronic games, collectibles and other merchandise.

sometimes work 20-hour days when preparing for trials, so it's important that they have a pleasant work environment, McKool said.

Ultimately, the law firm's clients benefit when the attorneys are better prepared, he said.

"The mentality of our firm is, we are revenue-driven," he said. "We're not cost-driven. We think our image is important, but even more important is the quality of the work life for

our people."

Amend said he thinks the new Arts District buildings will be highly attractive to companies whose leases are expiring during the next five years.

"Sizing is something (Craig Hall) is actively considering right now, and my encouragement to him is, don't build too little," Amend said.

"I think sites in the Arts District will be absolutely revered and treasured."