

# Daily Journal

MAY 17, 2023



## INTELLECTUAL PROPERTY

Top Lawyers 2023



### ROBERT A. VAN NEST KEKER, VAN NEST & PETERS LLP SAN FRANCISCO | *Litigation*

Robert A. Van Nest has significant court proceedings scheduled almost every month for the rest of the year.

First up is a trial set to start on June 12 defending YouTube and parent Google in a potential class action brought by Grammy-winning jazz pianist, orchestra leader and composer Maria Schneider, who is challenging the video streamer's protections for copyright holders. *Schneider v. YouTube LLC*, 3:20-cv-04423, (N.D. Cal., filed June 2, 2020).

"Schneider's goal is to change the way YouTube monitors copyright infringement," Van Nest said. The trial will be interesting, he predicted, because the company is "on the cutting edge" in using many tools "to ferret out and take down infringing material."

Virtually all the music on YouTube is licensed, either with publishers, organizations like ASCAP, or individuals, he said, and one issue in the trial will be whether the plaintiff licensed her own works.

In July, Van Nest and his team are set to argue for summary judgment to end an antitrust class action against Qualcomm Inc. over its pricing for chips used in almost all cellphones. A large class of consumers allege that the chipmaker had a "no-license, no-chips" policy that gave it a monopoly that allowed it to improperly inflate prices for phone purchasers. *Stromberg v. Qualcomm Inc.*, 5:17-md-02773 (N.D. Cal., filed April 6, 2017).

The 9th Circuit rejected a similar case from the Federal Trade Commission in 2020. Then last year, in this case, it blocked certification of a 200-million-member nationwide class. The plaintiffs now seek a California-only class, but the judge has chosen to hear the summary judgment motion first.

The judge has already cut some of the plaintiffs' claims based on the FTC decision. Van Nest is arguing for Qualcomm that the plaintiffs haven't provided any additional evidence for the remaining claims.

After that, Van Nest is set to go to trial on Sept. 11 to defend Google against allegations some of its superfast math chips infringe two patents owned by a small Massachusetts company. *Singular Computing LLC v. Google LLC*, 1:19-cv-12551 (D. Mass., filed Dec. 20, 2019).

And then, in November, he will go up against medical device giant Abbott to defend a dozen patents that his client Dexcom Inc. uses in its continuous glucose monitoring devices. The suit is just one of many between the sides all over the world. *Abbott Diabetes Care Inc. v. Dexcom Inc.*, 1:21-cv-00977 (D. Del., filed July 1, 2021).

In between those two trials, he had been set to try one for Apple against a former top executive, but it was dismissed.

Even so, Van Nest said, "I'm pretty busy."

—Don DeBenedictis