

TOP INTELLECTUAL

PROPERTY LAWYERS

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Robert A. Van Nest

FIRM

Keker, Van Nest & Peters LLP

CITY

San Francisco

SPECIALTY

litigation

Van Nest’s trial court win for client Alphabet Inc.-owned Google LLC over Oracle Corp. took a swerve in March at the U.S. Court of Appeals for the Federal Circuit when the panel reversed in Oracle’s favor and sent the matter back to San Francisco federal court for damages assessment hearings.

Google said it is evaluating its further appeal options. The case involves Oracle’s patent and copyright claims over the Java programming code. *Oracle America Inc. v. Google Inc.*, 2017-1118 (Fed. Cir., filed Oct. 26, 2016).

Van Nest continues to represent Google in an arbitration against its former engineer Anthony Levandowski, accused of poaching Google employees to launch the self-driving truck startup Otto, which Levandowski later sold to Uber Technologies Inc. “This is the other half of the fight,” Van Nest said, referring to the courtroom showdown between Google’s Waymo unit and Uber that ended in a multimillion-dollar settlement in February.

“It’s an exciting, hard-fought arbitra-



tion,” the Keker, Van Nest & Peters LLP partner said. “Levandowski has taken the Fifth, but we expect resolution by late spring.”

Van Nest is also deeply involved in defending Qualcomm Inc. in multidistrict litigation over claims the chipmaker ignored its contractual obligation to license standard-essential patents at what is known in the industry as fair, reasonable and nondiscriminatory, or FRAND,

rates. Consumers and Apple Inc. have filed more than two dozen antitrust suits following a Federal Trade Commission suit a year ago.

The FTC alleged that Qualcomm engaged in exclusionary conduct that inflates its competitors’ baseband processor sales, reduces competitors’ ability and incentive to innovate, and raises consumers’ costs for phones and tablets.

“There are dozens of cases. We’re in two,” Van Nest said, naming a consumer class action and the FTC case, which is set for a bench trial in 2019. Both are before U.S. District Judge Lucy Koh of San Jose. Class certification hearings are set for summer 2018; briefing begins in May, Van Nest said.

“The FTC claims that Qualcomm used its market power in mobile chips to extract excessive royalties from smartphone makers. Qualcomm maintains that its patent royalty rates are fair and do not discriminate.” *In re: Qualcomm Patent Licensing Antitrust Litigation*, 17-MD2773 (N.D. Cal., consolidated April 6, 2017).

— John Roemer