



TOP INTELLECTUAL PROPERTY LAWYERS 2022



Christa M. Anderson

Keker, Van Nest & Peters LLP | San Francisco

As a top patent and copyright litigator at Keker, Van Nest & Peters, Christa M. Anderson—who has been with the firm since 1996—has extensive experience in high-stakes, complex IP cases.

She's currently leading Google LLC's defense team as it responds to a nine-patent infringement challenge. She's lead counsel to Facebook and Instagram LLC in a five-patent suit. And she represents DexCom Inc. in sprawling patent litigation with its main rival in the manufacture and sale of continuous glucose monitors.

Part of her skill is her ability to boil down abstract concepts to make it easy for judges and juries to understand the central issues, and part of that talent is grounded in Anderson's undergraduate degree in mathematics, she said.

"I love math, and at a very high level, it helps with the logic of presenting a defense or a plaintiff's case. And at a very granular level, of course, a lot of technology uses mathematical concepts."

She has long represented Google, and she was part of the team led by law partner Robert A. Van Nest that established in a protracted \$8.8 billion

multi-court battle that the client's use of Oracle's Java programming code in its Android mobile operating system fell within the fair use doctrine—an outcome upheld by the U.S. Supreme Court in April 2021. *Google LLC v. Oracle America Inc.*, 18-956 (S.Ct., op. filed April 5, 2021).

At trial in that case, she and the team successfully simplified the issue by bringing into the courtroom a file cabinet. "It was the simplest possible analogy," she said. "We demonstrated the idea of organizing code into files. We always look for the everyday anchors people can relate to."

In her current case, Anderson is defending Google against claims that its noise-cancelling technology for earphones, smartphones and smart home devices infringes patents held by the plaintiff. *Jawbone Innovations LLC v. Google LLC*, 6:21-cv-00985 (W.D. Texas, filed Sept. 23, 2021).

In her case for Facebook and Instagram, Anderson is defending against claims that Facebook Live and Instagram Live products infringe on patents held by a plaintiff that created a Walk Talkie smartphone app. *Voxer Inc. v. Instagram LLC et al.*, 6:20-cv-00011 (W.D. Texas, filed Jan. 7, 2020).

And in representing DexCom,



Anderson is in a battle that involves rivals in the multibillion-dollar blood glucose monitoring device market. Her client sued and was countersued; each side asserted patent infringement over calibration capabilities, water resistant sealing design and other issues. *DexCom Inc. v. Abbott Diabetes Care Inc.*, 6:21-cv-00690 (W.D. Texas, filed June 30, 2021); *Abbott Diabetes Care Inc. v. DexCom Inc.*, 1:21-cv-00977 (D. Del., filed July 1, 2021).

"All my current cases involve very interesting technology and products," Anderson said. "All are like a mini-college education for me. I've been very fortunate."

John Roemer



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Robert A. Van Nest

Keker, Van Nest & Peters LLP | San Francisco

Van Nest has had some significant victories in the last couple of years, including one this past September defeating one of the largest consumer class actions ever filed. It sought as much as \$5 billion from chipmaker Qualcomm Inc. for as many as 250 million cell phone purchasers.

The class plaintiffs claimed Qualcomm had a “no-license, no-chips” policy that gave it a monopoly over the chips, allowing it to improperly inflate prices to phone purchasers. The 9th U.S. Circuit Court of Appeals ruled that a nationwide class was improper. *Stromberg v. Qualcomm Inc.*, 21 DJDAR 10215 (9th Cir., Sept. 29, 2021).

That appellate victory followed a similar one the year before against the Federal Trade Commission about the same alleged Qualcomm policy. *FTC v. Qualcomm Inc.*, 2020 DJDAR 8430 (9th Cir., Aug. 11, 2020).

Perhaps most significant was his firm’s victory four months earlier at the U.S. Supreme Court, which finally ended an \$8 billion patent infringement lawsuit Van Nest had been fighting for more than a decade. In a 6-2 decision, the court

ruled that Google’s use of Oracle’s Java API code in the Android operating system was fair use.

Supreme Court specialist Tom Goldstein argued the appeal, as he had the FTC case. But Van Nest said the ruling reflected all the evidence he and his team proved at trial. “I’m very proud of the fact that our trial record was the basis for Justice [Stephen] Breyer’s opinion,” he said. *Google LLC v. Oracle America Inc.* 140 S.Ct. 520 (2021).

Van Nest was less successful with a trial he concluded in February in Waco, Tex. A company whose software analyzes data from smart thermostats accused the Google Nest thermostat of infringing four of its patents. Only two reached the jury, which found that just one claim of one patent did infringe. It awarded the plaintiff \$20 million. *EcoFactor Inc. v. Google LLC*, 20-cv-00075 (W.D. Tex., filed Jan. 31, 2020).

It could have been worse. The plaintiff had asked for \$30 million in past damages for each patent plus \$100 million more in future royalties.

Van Nest said the verdict is important for patent litigators generally. It provides the patent bar a little



more information about the court and the jury pool in Waco, where U.S. District Judge Alan Albright has amassed a docket of about 800 patent cases since late 2018.

“It’s hard for people to understand what the results are going to be down there. They’ve been wide-ranging,” Van Nest said. There have been defense verdicts and a \$2 billion verdict, he noted. “The jury’s out, so to speak, on juror attitudes in Waco.”

But his February verdict is not an outlier. “The thing that I learned from this verdict is it’s possible to get a fairly well-educated jury in Waco.”

Don DeBenedictis