

# TOP INTELLECTUAL PROPERTY LAWYERS 2017

## Brian L. Ferrall

### FIRM

Keker, Van Nest & Peters LLP

### CITY

San Francisco

### SPECIALTY

Litigation

Ferrall represents tech and biotech clients in high-stakes patent, trade secret and other intellectual property disputes. His book of business lists Comcast Cable Communications LLC, Taiwan Semiconductor Manufacturing Co., Arista Networks Inc. and Coherus Biosciences Inc.

“Comcast is keeping me busy,” he said. “They are the target of a lot of patent litigation these days.”

Ferrall’s defense of Comcast against patent infringement claims brought by Two-Way Media Ltd. looked tricky when Two-Way successfully asserted some of the same audio and video streaming patents against a variety of telecommunications companies and came away with a \$28 million jury verdict of infringement against AT&T Inc.

But when U.S. District Judge Richard G. Andrews of Wilmington, Delaware, looked at Ferrall’s defense for Comcast, he saw it differently.

Ferrall argued that the patents in question were abstract and patent-ineligible under the U.S. Supreme Court’s Alice decision.

The judge agreed and tossed the patents in August 2016. *Two-Way Media Ltd. v. Comcast Cable Communications LLC*, 14-CV01006 (D. Del., filed Aug. 1, 2014).

“Two-Way is one of my prouder wins,” Ferrall said. “We were pretty pleased we

were able to invalidate those patents.”

Also for Comcast, Ferrall is on the defense against patent infringement and state tort employment claims brought by Promptu Systems Corp., formerly Agile TV Corp., related to television voice control technology.

In May, Ferrall successfully compelled arbitration of unfair competition and tort claims and achieved a stay of the patent claims pending outcome of the arbitration. *Promptu Systems Corp. v. Comcast Cable Communications LLC*, 16-CV06516 (E.D. Penn., filed Dec. 19, 2016).

“Promptu claims it had developed voice control for a cable system as far back as the late 1990s,” Ferrall said, “and also claimed it had presented the technology to senior Comcast executives. We deny and dispute that our executives agreed to compensate Promptu when it rolled out.”

“I suspect the plaintiffs really thought the claims would be particularly sensitive to Comcast because they alleged our executives’ involvement,” he added. “Putting the patent claims on hold while we arbitrate the contract claims seems to be frustrating the plaintiff no end.”

In a third Comcast matter, Ferrall is co-lead counsel defending the company against an International Trade Commission complaint brought by OpenTV Inc. related to digital television set-top box



technology, voice control, and the ability to prevent fast-forwarding during commercials.

A hearing before the commission is set for November. *In the matter of Certain Digital Television Set-Top Boxes, Remote Control Devices and Components Thereof*, 337-TA-1041 (ITC, filed Jan. 25, 2017).

“Not everything is Comcast in my world,” Ferrall said, “but these are cases and technologies everyone can relate to.”

— John Roemer