

Rising Star: Keker Van Nest's Reid Mullen

Law360 (August 21, 2018, 2:30 PM EDT) -- Reid Mullen of Keker Van Nest & Peters LLP successfully defended Google twice against Oracle in multibillion-dollar patent litigation over the computer programming tools on Google's Android platform, placing him among five trial attorneys under 40 named as Law360 Rising Stars.

THE MOST DEFINING CASE OF HIS CAREER:

For the larger part of his career, Mullen has been defending Google in ongoing patent litigation against Oracle over an application programming interface, or API. Google won twice in trial court, only to have both jury verdicts overturned by the Federal Circuit on appeal. Google's petition for a rehearing en banc on Oracle's second appeal is currently pending before the circuit court.

On Oracle's first appeal, the Federal Circuit overruled a jury on the copyrightability of APIs. After a jury uniformly sided with Google on its fair-use copyright claim in its second trial, the Federal Circuit fired back that there was nothing fair about Google's use of Oracle's APIs.

Mullen's biggest takeaway from the case is the importance of turning abstract concepts into simpler ideas when presenting his case before a jury. One way he does this is by using analogies such as rolling a gray file cabinet into the courtroom to explain what APIs are — a system for organizing computer files to help computer programmers find them later.

"As lawyers, we sometimes forget we get to spend certainly months, if not years, living with the facts of the case, puzzling over the technology, before we walk into that courtroom and present it at trial. Jurors get maybe one or two weeks to live in that world," Mullen said. "You've got to help them right away understand what's happening. ... You can almost run the risk of knowing your case too well, and you

RISING
 ★★★★★
STAR



Reid Mullen
Keker Van Nest

Age: 37

Home base: San Francisco

Position: Partner

Law school: University of California, Berkeley School of Law

First job after law school: Clerk for Judge Robert J. Jonker in the Western District of Michigan

think that something is easy because you have been talking about it amongst your colleagues for weeks and months and years on end, but for the jurors, and sometimes even the judge, that's the first time they are ever hearing it."

HIS MOST MEMORABLE MOMENT IN THE COURTROOM:

In addition to representing large tech companies in multibillion-dollar cases, Mullen also does pro bono work. One case that stands out for him is when he and a team of Keeker Van Nest attorneys worked with the Northern California Innocence Project to exonerate Ronald Ross, who was serving a life sentence for attempted murder. Mullen said he will never forget standing next to Ross when the judge granted his habeas corpus petition.

"I love working on big high-profile issues ... like the Oracle v. Google case, but I've got to tell you, in terms of immediate impact, it is hard to beat being in the courtroom when your client is exonerated," Mullen said.

HOW HE SEES THE LEGAL INDUSTRY CHANGING:

Because of high costs, a backlog of cases and the unpredictability of trial outcomes, Mullen believes more clients will seek alternatives to going to trial, such as settlements or arbitration. While there will always be a need for large trial firms to represent megacorporations in complex legal cases, he said, small trial cases will be harder to come by. The drawback to this, Mullen said, is that there will be fewer trials for young attorneys to gain experience from.

"There is never a guarantee when you are going into trial," Mullen said. "You cannot say what is going to happen when that case goes back with the jury and they get a chance to make a decision. So a lot of businesses rightly are very concerned about taking that risk, and settlement is the prudent option."

HIS ADVICE FOR YOUNG ATTORNEYS:

Mullen said one of the perks of being a trial attorney is getting to see the techniques other attorneys use to present their case and sway judges or juries to their side. His advice for young trial attorneys is to observe other attorneys in action to build their own persona in the courtroom.

"The key to being a good trial lawyer ... is finding your authentic voice. Credibility really matters in a jury trial, and if you are not acting like yourself, you will come across as inauthentic and it is going to hurt your case," Mullen said. "I think young lawyers ought to work hard to see as many different styles as they can ... observe as many trials as you possibly can, really be a sponge and soak it all up, and use parts of what works from this person and parts of what work for that person and build it all together in your own narrative style. And then continue to explore and refine that style as you get more experience."

"Each time you stand up there in front of a judge or jury it is another opportunity to hone your skills, refine your craft and get better," he added.

— As told to Sarah Martinson

Law360's Rising Stars are attorneys under 40 whose legal accomplishments belie their age. A team of Law360 editors selected the 2018 Rising Stars winners after reviewing more than 1,200 submissions. This interview has been edited and condensed.

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