

Rising Star: Keker Van Nest's Tom Gorman

By Britain Eakin

Law360 (June 8, 2021, 3:03 PM EDT) -- Thomas Gorman of Keker Van Nest & Peters LLP has litigated intellectual property, antitrust, fraud and breach of contract cases, including one that uncovered a massive trade secret theft leading to a \$179 million arbitration win for Google, earning him a spot among the intellectual property attorneys under age 40 honored by Law360 as Rising Stars.

WHY HE'S AN IP ATTORNEY:

Thomas Gorman didn't think he'd end up in law. In fact, at one time he wanted to be the general manager for a Major League Baseball team. He got really into sabermetrics, the use of statistics to study baseball, in the hopes that he could angle himself into a front office position.

But Gorman, who earned a bachelor's degree from Columbia University, said most MLB teams back then weren't interested in hiring a stats-focused Ivy League grad who hadn't played college baseball. And the clubs that were interested wanted someone with more training in statistics and probability. So he did some sports writing and consulting, and took a job as a paralegal for MLB's outside counsel.

"I was specifically hired to work on their response to Senator George Mitchell's investigation into PED use in baseball," said Gorman, referring to performance-enhancing drugs. "I was essentially the in-house 'baseball consultant' for all these former prosecutors who were advising MLB on the investigation. So that was the year that I had a foot in each camp, before I decided to go to law school."

Going to law school wasn't a huge jump for him, though, because he'd always been drawn to public policy and the law, he said. But his decision to go to law school didn't close the door on baseball. "I've actually been lucky enough that I've had a lot of cases for Major League Baseball. I've represented them in a lot of matters,"



Tom Gorman
Keker Van Nest

Age: 39
 Home base: San Francisco
 Position: Partner
 Law school: University of Chicago Law School
 First job after law school: Law clerk to Seventh Circuit Judge Richard A. Posner

Gorman said. "So I was able to find a way to combine the two."

In one such case, Gorman was part of a team that helped MLB fend off a putative class action suit brought by two former baseball scouts alleging antitrust violations arising from a conspiracy to stymie competition in the labor market for scouts. The court was persuaded that MLB's antitrust exemption barred the claims, and the case was dismissed.

THE BIGGEST CASE OF HIS CAREER:

Gorman was part of a team representing Google in arbitration claims against former Google engineers Anthony Levandowski and Lior Ron, who founded Google's self-driving vehicle startup, Project Chauffeur, now known as Waymo.

After leaving Google, Levandowski and Ron embarked on another self-driving vehicle venture that they sold to Uber for roughly \$680 million. Gorman and his colleagues helped Google secure a nearly \$179 million arbitration judgment after Google accused Levandowski of stealing trade secrets.

Gorman was also part of a team representing Waymo in a related matter, a hotly contested civil lawsuit against Uber over claims of trade secret theft related to the self-driving car technology.

The dispute settled in 2018 with Uber agreeing to pay Waymo \$245 million, but Gorman said the team's work on the case investigating the circumstances of Levandowski's departure from Google spurred a 33-count criminal indictment accusing him of downloading files from Google's secure database before leaving the company.

Levandowski ultimately pleaded guilty to one count of trade secret theft and was sentenced to 18 months in prison. However, President Donald J. Trump pardoned him in the waning hours of his presidency. Still, Gorman said he's enormously proud of the work he did on the case.

"The guilty plea and the two massive results for our clients are obviously something I'm very proud of," Gorman said.

WHAT MOTIVATES HIM:

Gorman cites his job as the source of his inspiration.

"Every day we get to do something different and learn something new — new technologies and new business models," Gorman said. "We get to meet new clients, and address new legal issues. And I get to do all that with really smart, talented, fun colleagues. So my motivation is that I just really like coming to work, and doing this work every day."

Gorman said he thrives on learning about new technologies and enjoys having a diverse practice, which he said the firm supports. He's currently representing Netflix in an IP dispute with Broadcom over 12 patents related to a content delivery system and a video encoding pipeline. "It's just a totally new technology area for me to investigate and explore," Gorman said.

He's also representing a startup called Kitty Hawk, which makes electric vertical takeoff and landing aircraft. Or, as Gorman called them, "flying cars."

"I get to learn about aeronautics and the technology — the battery systems, and the motors and

computer systems to fly," he said, adding that the work for the company has been "exciting and interesting."

HOW HE THINKS IP PRACTICE WILL CHANGE IN THE NEXT 10 YEARS:

"You don't need a crystal ball" to see that certain shifts firms made amid the COVID-19 pandemic are likely to linger, he said. For one thing, Gorman said, firms will probably continue virtual operations to minimize travel.

"Zoom and other technology tools have proven that they are, if not a perfect substitute for being there in person, they are often good enough when you factor in the cumulative cost and time involved in traveling," he said.

That applies to driving many hours to conduct 90-minute interviews with witnesses. "I don't think I'll ever do that again," Gorman said. "Because it's just not an efficient use of anyone's time."

— *As told to Britain Eakin*

Law360's Rising Stars are attorneys under 40 whose legal accomplishments belie their age. A team of Law360 editors selected the 2021 Rising Stars winners after reviewing more than 1,400 submissions. Attorneys had to be under 40 as of April 30, 2021, to be eligible for this year's award. This interview has been edited and condensed.