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2005

The Client's Guide

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Keker & Van Nest is ranked in Chambers USA 2005 as follows:

CALIFORNIA

INTELLECTUAL PROPERTY

Leading firms (Intellectual Property)
1 KEKER & VAN NEST LLP <i>San Francisco</i>
Leading individuals (Intellectual Property)
2 KEKER John <i>Keker & Van Nest, San Francisco</i>
3 PAGE Michael <i>Keker & Van Nest, San Francisco</i> VAN NEST Robert <i>Keker & Van Nest, San Francisco</i>
4 DURIE Daralyn <i>Keker & Van Nest, San Francisco</i> STREETER Jon <i>Keker & Van Nest, San Francisco</i>
<small>Individuals are listed alphabetically in each band.</small>

Keker & Van Nest LLP

The Firm: This solid and sizable team is considered “at the cutting edge of whatever is happening within litigation.” Rivals note that the name of Keker & Van Nest on the other side implies “a hard battle that will be fought with honor and integrity.” As one noted, the team “has made some

significant strides” recently in the IP field, giving it a strong and rounded profile. Clients, meanwhile, see the firm as “a highly professional and extremely strong litigation boutique.” The team acts as counsel to both defendants and plaintiffs in trademark, copyright, patent infringement and trade secrets cases. A recent string of high-profile matters included the patent case Collaboration Properties v Polycom, in which the group advised Polycom. The group is also said to have done a superb job for Genentech in the widely reported patent case, MedImmune v Genentech.

The Lawyers: “Energetic” John Keker was described to researchers as a “formidable trial lawyer and a quality human being.” His loyal clients value his “top-notch litigation skills” and consider him “the one you seek out if you’re in a deep mess.” The firm’s other eponymous partner, Robert Van Nest, has dealt with “some of the toughest patent cases” in the state. He is “aggressive, smart, lively and hardworking,” and

can be relied upon to do “a fine job for his clients.” Michael Page is considered the firm’s “future star.” Interviewees note that he “knows his way around the courtroom,” something that was amply demonstrated recently in MGM Studios v Grokster, which concerned the entertainment industry’s efforts to control copyright infringement of its works. He won the case for Grokster in the trial court and the Ninth Circuit. Also warmly recommended were the “knowledgeable” Jon Streeter, who clients say can “handle any complex matter,” and “talented” Daralyn Durie, who deals with sophisticated issues on behalf of such high-profile clients as Google and Polycom.

The Clients: The team represented Google in Overture Services v Google. Other clients include: Grokster; Intel; Polycom; First Data and Genentech.

LITIGATION

Leading firms (Litigation: General Commercial)
1 KEKER & VAN NEST LLP <i>San Francisco</i>
Leading individuals (Litigation: General Commercial)
1 KEKER John <i>Keker & Van Nest, San Francisco</i>
4 VAN NEST Robert <i>Keker & Van Nest, San Francisco</i>
Leading individuals (Litigation: White-Collar Crime & Government Investigations)
1 KEKER John <i>Keker & Van Nest, San Francisco</i>

Keker & Van Nest LLP

The Firm: This 50-strong trial boutique is best known for its high-profile white-collar criminal practice, but is just as “formidable” in the civil arena, where the team specializes in complex

civil cases, which often have a criminal aspect to them. On the civil side, the team has been involved in malpractice, securities, contract, employment and products liability disputes. Highlights include defending class actions against American Honda Finance Corporation, LSI Logic, AT&T Wireless and General Nutrition Corporation. In criminal matters, involvement has ranged from healthcare cases to foreign corrupt practices matters and criminal investigations. The group defended former CSFB investment banker Frank Quattrone, where the first trial resulted in a hung jury, and the second resulted in conviction.

The Lawyers: “Highly sought-after” John Keker is the central figure at the firm. Widely described as a “world-class trial lawyer” with a national reputation, he was one of the lead partners defending Andrew Fastow, the former CFO of Enron Corp, in connection with a 108-count indictment alleging that he organized a \$68 bil-

lion fraud leading to Enron’s bankruptcy. The group negotiated a plea agreement with a ten-year sentence for Fastow. Interviewees say Keker possesses “every attribute you want in a criminal advocate.” Robert Van Nest maintains a reputation as a skilled attorney in civil matters. His caseload includes complex business litigation and white-collar work and he often undertakes simultaneous litigation involving civil, criminal and administrative proceedings. Van Nest recently defended a Japanese automaker in class action and multidistrict litigation involving more than one hundred automobile dealerships and a class of over 1000 dealers, involving RICO, fraud and commercial bribery claims.

The Clients: Clients include American Honda Motor, AT&T Wireless, USI Logic, General Nutrition Corporation, and Hellman & Friedman.

GENERAL COMMERCIAL

Leaders in California

DURIE, Daralyn J

Keker & Van Nest LLP, San Francisco
415 391 5400

Recommended in Intellectual Property

Practice Areas: Daralyn Durie has tried cases in both the state and federal courts in a wide range of areas including patent, trade secret, unfair competition. Representative clients include Comcast Cable Communications, Inc, The Gap, Inc., Genentech, Inc.

Prof. Memberships: Served as a lawyer representative to the Ninth Circuit Judicial Conference and has taught on the faculty of the National Institute for Trial Advocacy; member Board of Directors of Berkeley Montessori School.

Career: Law clerk to the Honorable Douglas Ginsberg on the United States Court of Appeals for the District of Columbia Circuit (1992-93). Joined Keker & Van Nest, 1993; became Partner, 1999. Frequent invited speaker on patent litigation, the DMCA, and legal ethics.

Personal: Boalt Hall School of Law, University of California (JD 1992); University of California at Berkeley (MA 1989); Stanford University (BA, 1988).

KEKER, John

Keker & Van Nest LLP, San Francisco
415 391 5400

Recommended in Intellectual Property, Litigation

Practice Areas: John Keker is one of the top trial lawyers in the United States. His trials have included criminal defense, patents, contracts, securities fraud, copyright, and business torts. Cases include, in 2002, winning a jury trial for Genentech in a \$300 million patent dispute with Chiron; in 2001, representing Cadence Design Systems, Inc., winning \$195 million from Avant! Corporation in restitution for trade secret theft. Other notable cases: chief prosecutor, United States v Oliver North, 1989, Iran/Contra Independent Counsel's Office, Washington, DC; defense counsel US v Frank Quattrone (SDNY 2003 (hung jury), convicted 2004, on appeal); defense counsel in Ventritex v Intermedics, listed by the National Law Journal as one of the top ten defense verdicts of 1992; Plaintiff's counsel in Maglica v Maglica, listed in the National Law Journal as one of the top ten plaintiff's verdicts of 1994, and

plaintiff's counsel in Xilinx v Altera, (ND Cal.) one of the most significant patent trials of 2000.

Prof. Memberships: Fellow of the American College of Trial Lawyers, the International Academy of Trial Lawyers, the American Board of Trial Advocates, and the American Bar Foundation.

Career: Former law clerk to the Honorable Earl Warren, retired chief justice of the United States (1970-71); staff attorney at the Natural Resources Defense Council, Washington DC; Assistant Federal Public Defender for the Northern District of California (1971-73); founded Keker & Van Nest in 1978.

Publications: Co-author of 'Effective Direct and Cross Examination', California Continuing Education of the Bar, 1986.

Personal: Yale Law School (JD 1970); infantry platoon leader in Vietnam while a lieutenant in the United States Marine Corps (wounded and retired in 1967); Princeton University (BA, 1965).

PAGE, Michael

Keker & Van Nest LLP, San Francisco
415 391 5400

Recommended in Intellectual Property

Practice Areas: Intellectual property litigation, with extensive experience in copyright, trade secret, trademark, and patent litigation. Recently, he received a CLAY Award (California Lawyer Attorney of the Year) for his success in obtaining a landmark decision in favor of his client Grokster in litigation against all of the major motion picture studios and record companies. That decision (currently on appeal to the United States Supreme Court) established the legality of peer-to-peer file sharing software. Significant intellectual property clients have included, Google, Cadence Design Systems, Nintendo, Electronic Arts, Sega, Intertrust, eBay, Nullsoft, Palm Computing, 3Com, Harris Corporation, Heartport, AOL, E-Loan, and Tegal Corporation.

Prof. Memberships: San Francisco Bay Area Intellectual Property Inns of Court; former Co-Chairman of the Litigation Section of the Barrister's Club.

Career: Law clerk to the Honorable Samuel Conti, United States District Court, Northern District of California; joined Keker & Van Nest, 1995; became Partner, 1999.

Publications: Co-author: 'Copyright Protection of Video Games in the United States: Galoob v Nintendo', 14 European Intellectual Property Review, January 1992; 'Add-on Infringements: When Computer Add-Ons and Peripherals Should (And Should Not) be Considered Infringing Derivative Works under Lewis Galoob Toys, Inc. v Nintendo of America, Inc., and Other Recent Decisions', Vol. 15 No. 3 Hastings Communication and Entertainment Law Journal, 1993.

Personal: Boalt Hall School of Law, University of California (JD 1991); University of Pennsylvania (BA 1975).

STREETER, Jon

Keker & Van Nest LLP, San Francisco
415 391 5400

Recommended in Intellectual Property

Practice Areas: Complex commercial civil litigation cases including intellectual property, antitrust, securities, banking and energy. He recently obtained a \$41 million jury verdict in a breach of contract dispute. Representative clients include, Fresenius USA, Memorex, Oakland Alameda Coliseum Authority, PG&E, Inc., Schlumberger, and Tegal Corporation.

Prof. Memberships: President of the Association of Business Trial Lawyers of Northern California; Member of the Executive Committee of the Edward McFetridge Chapter of the American Inns of Court; Member of the California Senate Commission on the Fair Administration of Justice; Member of the American Law Institute; Member, Ninth Circuit Task Force on Self-Represented Litigants; Chair of Keker & Van Nest's Pro Bono Committee; Former President of the San Francisco Bar Association; Past chair of the Northern District of California Lawyer Representatives to the Ninth Circuit Court of Appeals.

Career: Partner, Keker & Van Nest (1997-present); Orrick, Herrington & Sutcliffe (Partner, 1989-97) (Associate 1981-82, 1983-88); Law Clerk to the Hon Harry T Edwards, United States Court of Appeals for the District of Columbia Circuit (1982-83).

Personal: Boalt Hall School of Law, University of California (JD 1981); Stanford University (AB 1978).

VAN NEST, Robert

Keker & Van Nest LLP, San Francisco
415 391 5400

Recommended in Intellectual Property, Litigation

Practice Areas: Practice ranges widely over the field of complex business litigation, and white-collar crime. He has tried cases involving patent infringement, securities fraud, trademarks, commercial contracts, RICO, partnership disputes, real estate, insurance bad faith, mail and wire fraud, and others. Representative clients include American Honda Motor Company, AT&T Wireless Services, Inc., Genentech, Inc., Intel Corporation, LSI Logic Corp., Pacific Gas & Electric and Xilinx, Inc.

Prof. Memberships: Served on the faculties of the Hastings College of Advocacy, the National Institute for Trial Advocacy and the Sedona Conference on Patent Litigation and has been a Lecturer in Developments in Tort Practice for the California Continuing Education of the Bar since 1985. He recently served as a member of the State Bar Commission on Mandatory Continuing Legal Education. Former director of the Association of Business Trial Lawyers (1992-2000) and chairs the Development Committee of Bay Area Legal Aid (1995-present).

Career: Law clerk to the Honorable William H Orrick in the Northern District of California (1978-79); joined Keker & Brockett, 1979; Partner since 1982.

Personal: Harvard Law School (JD, magna cum laude, 1978); Stanford University (BA, with honors, 1973). Member Phi Beta Kappa.

KEKER & VAN NEST LLP

THE FIRM

Managing Partner: Christopher C Kearney

Number of partners: 24

Number of attorneys: 53

AREAS OF PRACTICE:

Litigation100%

FIRM OVERVIEW: Kecker & Van Nest is a trial-practice litigation firm located in San Francisco. For more than 25 years, the firm has devoted its practice exclusively to complex civil and criminal litigation. The firm's practice is national in scope and includes trials of complex, high-stakes civil or criminal litigation cases in state and federal courts throughout California and the nation. In its January 2005 edition, *The American Lawyer Magazine* named Kecker & Van Nest as the "Litigation Boutique of the Year," singling out the firm for litigation success in high stakes matters. "Kecker & Van Nest lawyers handle cases of national importance...Not only do they win consistently, they do so while working in an environment that is a model for the legal industry in the areas of diversity and pro bono."

MAIN AREAS OF PRACTICE:

Intellectual Property: Kecker & Van Nest represents plaintiffs and defendants in patent, trade secret, trademark, and copyright cases. The firm's clients include companies in the fields of semiconductors, medical equipment, biotech, software, networking, the internet, and consumer goods such as wineries, and include four of Wired Magazine's top ten new economy companies. *The American Lawyer Magazine*, in connection with awarding the firm with Litigation Boutique of the year honor, cited the firm for its "precedent setting copyright cases," and stated "Kecker & Van Nest has been in the vanguard of emerging intellectual property precedents, winning key decisions protecting the patent rights of biotech leader Genentech and successfully defending client Grokster when it was sued by virtually the entire entertainment industry."

Antitrust: Kecker & Van Nest maintains a diverse antitrust practice. On the civil side, the firm defends against and prosecutes antitrust claims. The firm represents individuals and corporations in individual and class-action suits in federal and state court, as well as federal and state administrative proceedings and investigations by federal and state enforcement authorities. On the criminal side, the firm represents individuals and corporations in investigations by both federal and state prosecutors.

White Collar Criminal: Kecker & Van Nest is one of the pre-eminent federal criminal defense trial firms in the country. The firm has handled a wide variety of financial fraud cases, including allegations of securities fraud, and bank fraud, tax fraud, as well as medicare fraud, false claims act charges, foreign corrupt practices act and other transnational crimes, and environmental violations. Many of these cases are resolved during the grand jury stage with no charges being brought and thus never become public.

Contract & Commercial: Kecker & Van Nest represents plaintiffs and defendants in a broad range of commercial disputes, including class actions. The firm has handled class actions relating to discrimination and other unfair business practice claims, employee claims, false advertising claims, and securities related claims.

HEAD OFFICE

CALIFORNIA

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Professional Liability: Kecker & Van Nest has been hired by major law firms, particularly those insured by Attorneys Liability Assurance Society (ALAS) and MPC Insurance, Ltd. in professional liability litigation involving claims of malpractice, malicious prosecution, allegations of fraud, conflicts of interest, and breach of fiduciary duty. In the last two years, the firm has handled more than 20 legal malpractice matters. In addition, the firm has represented two national accounting firms in defending breach of contract, professional negligence and fraud claims.

CLIENTS: The firm's corporate clients include American Honda Motor Company, Inc.; AT&T Wireless; Cadence Design Systems; Comcast Cable Communications, Inc.; eBay, Inc.; Electronic Arts, Inc.; The Gap, Inc.; Genentech, Inc.; Google, Inc.; Intel Corporation; Johnson & Johnson; Micron Technology, Inc.; National Semiconductor; Netflix, Inc.; Pacific Gas & Electric; Palm, Inc.; Taiwan Semiconductor Manufacturing Corp.

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