

GARY S. KITCHEN

PATENT DISPUTE MEDIATION AND LITIGATION

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PROFESSIONAL EXPERIENCE

GARY KITCHEN, PATENT DISPUTE MEDIATION AND LITIGATION, MARSHALL, TEXAS

Leverages extensive business management and patent litigation experience to assist parties in resolving patent litigation disputes nationwide.

MCKOOL SMITH P.C., MARSHALL, DALLAS, AND AUSTIN, TEXAS

Attorney in litigation boutique focused upon litigation and trial of intellectual property and complex commercial matters. Extensive litigation and trial experience includes over fifty (50) patent cases, as well as significant trademark, oil and gas, complex contract, bankruptcy/fraudulent transfer, mass tort and class action matters.

Noted patent cases in which Mr. Kitchen has participated include, but are not limited to:

- *OPTi Inc. v. Apple Inc.* Patent matter involving core logic chipset technology resulting in a favorable jury verdict for plaintiff OPTi, Inc.
- *Cooper Technology, Inc. v. Thomas & Betts Corporation.* Patent matter involving power transmission equipment resulting in a favorable jury verdict of invalidity for defendant Thomas and Betts Corp.
- *Visto Corporation v. Seven Networks, Inc., Visto Corp. v. Microsoft Corp., Visto Corp. v. Good Technologies, Inc., Visto Corp. v. Research in Motion (RIM).* Multiple patent infringement suits involving mobile email synchronization technology resulting in a favorable jury verdict for plaintiff Visto against Seven Networks and favorable settlements with all defendants including a business combination with Good and a publically disclosed nine-figure settlement with RIM.
- *Golden Hour Data Systems, Inc. v. emsCharts, Inc.* Patent matter involving initial jury verdict of infringement thereafter resulting in favorable District Court ruling for defendant emsCharts of unenforceability due to inequitable conduct.
- *Paice LLC. v. Toyota Motor Corporation, et al.* Patent matter involving hybrid car engines resulting in a favorable jury verdict for Paice, LLC.
- *Avid Identifications Systems v. Datamars SA et al.* Patent suit involving RFID microchip permanent identification technology resulting in favorable judicial finding of unenforceability due to inequitable conduct (on-sale-bar) for defendant Datamars.
- *Cummins-Allison Corp. v. Glory Ltd., et al.* Patent suit regarding bill counting and banking technology resulting in favorable settlement for plaintiff Cummins-Allison just prior to jury selection.

- *Board of Regents, University of Texas System v. Setagon, Inc. et al.* Dispute involving patent applications for stent devices with porous layers for eluting therapeutic agents resulting in favorable settlement for defendant Medtronic.
- *FotoMedia Technologies, LLC v. AOL, LLC. et al.* Patent action involving photo sharing technologies against multiple defendants resulting in favorable settlements for plaintiff FotoMedia.
- *Hill v. Amazon.com et al.* Multiple patent suits involving storing and updating electronic data against more than thirty internet retailers resulting in favorable settlements for plaintiff Charles Hill.
- *AT&T v. Excel Communications.* Landmark patent litigation involving software patent resulting in settlement just prior to jury trial.
- *Ciena Corp. v. Nortel Networks, et al.* Patent matter related to WDM (wavelength division multiplexed) fiber optic networks resulting in favorable settlement for defendant Nortel.

AT&T (F/K/A SOUTHWESTERN BELL CORPORATION (SBC)), MEXICO CITY, SAN ANTONIO, CORPUS CHRISTI, LUBBOCK, TEXAS

As an executive with SBC International, Inc. (n/k/a AT&T), Mr. Kitchen served four years as strategic management consultant to senior executives at *Telefonos de Mexico* (Telmex). Reporting to Senior Vice-President, Finance & Systems, initiated and managed revenue protection project generating significant cash flow and annual net income improvement. Reporting to Senior Vice President-Marketing, managed restructuring of 4,000 employee consumer sales and service organization. Planned and implemented 3,000 position call center development project. Designed and executed customer segmentation strategy improving productivity and market share retention during company's transition to a competitive telecom marketplace.

As Director of Sales for Southwestern Bell's U.S. messaging subsidiary, managed sales and product support operations across five state region. Implemented new planning, coordination, and performance programs resulting in significant improvement in channel production in less than one year.

As Area Manager-Business Sales and Service Centers, West Texas Region for Southwestern Bell Telephone, managed West Texas sales and service operations and statewide Business Product Promotion Center. Leading team of ten managers and 120 sales representatives, improved sales and service rankings to first place in the state of Texas in less than six months.

COURT ADMISSIONS

State of Texas
U.S. District Courts for the Eastern and Northern Districts of Texas

BAR ADMISSIONS

American Bar Association
American Intellectual Property Law Association
Eastern District of Texas Bar Association

Dallas Bar Association

AWARDS AND RECOGNITION

Named Texas Super Lawyer Rising Star 2007 and 2009

EDUCATION

Mediation Certification, Center for Dispute Resolution, Univ. of Texas School of Law 2009

Juris Doctor, Southern Methodist University School of Law 2001

- Graduate *cum laude*
- Editor-in-Chief, THE INTERNATIONAL LAWYER, ABA JOURNAL OF INTERNATIONAL LAW published by SMU School of Law
- Regional Semi-Finalist, National Mock Trial Competition 2000
- Quarter Finalist, Jackson Walker Moot Court Competition 1999
- Rupert and Lillian Radford Scholar
- Representative, SMU School of Law, U.S. Supreme Court – Russian Constitutional Court Summit, Washington, D.C., January 2001
- Co-author, *Genetic Engineering: Whither We Tend?* Published in ASRP JOURNAL OF LAW AND SOCIAL PHILOSOPHY, Fall 2001 and presented at the 19th World Congress, International Association of Law and Social Philosophy (IVR), World Trade Center, New York, New York, June 1999.

Master of Arts, Political Science, University of Texas-San Antonio 1999

Bachelor of Arts, Political Science, University of Texas-San Antonio 1987

Ron Tabor Award Winner, National Cross Examination Debate Association 1984

CIVIC ACTIVITIES

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| 2008-2012 | Board of Directors, Greater Chamber of Commerce, Marshall, Texas |
| 2008-2009 | Member, Downtown Rotary of Marshall, Texas |
| 2003-2006 | <i>Advisory Council</i> , College of Liberal and Fine Arts, University of Texas-San Antonio |
| 2002-2003 | <i>Advisory Board Member</i> , UTSA Institute for Law and Public Affairs |
| 2000-2001 | <i>Intern and Volunteer</i> , Legal Services of North Texas |
| 1995-1996 | <i>Corporate Development Committee Member</i> , Witte Museum Foundation |
| 1992 | <i>Executive Development Committee Member</i> , United Way of South Texas |