

# John A. Kenney

Of Counsel

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## Overview

John Kenney's practice involves litigation of complex business cases, primarily those involving intellectual property and other technical and scientific issues. He has tried and handled cases, arbitrations, and administrative proceedings and hearings in many state and federal courts in the United States, the Virgin Islands and several foreign countries. Over the years, this has included cases involving patents and other intellectual property, products liability, oil and gas, environmental, antitrust, securities fraud, and other contract and general business issues. He also advises clients concerning matters involving intellectual property law and products liability law.

John regularly practices before all federal district courts in Oklahoma, including the U.S. District Court for the Western District of Oklahoma, located in Oklahoma City; the U.S. District Court for the Northern District of Oklahoma, located in Tulsa; and the U.S. District Court for the Eastern District of Oklahoma, located in Muskogee. He has also tried cases in numerous federal district courts around the country and handled appeals in the U.S. Supreme Court and in the U.S. Courts of Appeals for the Federal Circuit, Tenth Circuit and Fifth Circuit.

He has previously served as leader of the firm's Litigation Practice Group and Intellectual Property Practice Group. He has also served on the firm's board of directors.

Before attending law school, John was employed as an engineer with Westinghouse Electric Corporation in Staunton, Virginia, and Norman, Oklahoma, and as a project engineer by University Associates, Inc. After law school, he worked as a litigation associate at Baker & Botts in Houston, Texas, before returning to Oklahoma and joining McAfee & Taft.

John's interest in protecting the intellectual property rights to both industrial and artistic works is personal as well as professional. John is an inventor of nine patents issued by the United States

## Admissions

Oklahoma, 1981

Texas, 1975 (Inactive)

U.S. District Courts for the Western, Northern and Eastern Districts of Oklahoma

U.S. Courts of Appeals for the Fifth and Tenth Circuits

U.S. Court of Appeals for the Federal Circuit

U.S. Supreme Court

## Education

J.D., University of Oklahoma, 1975; Order of the Coif; Board of Editors, *Oklahoma Law Review*

B.S. (Industrial Engineering), with distinction, University of Oklahoma, 1971; Tau Beta Pi; Alpha Pi Mu

## Professional Organizations and Memberships

American College of Trial Lawyers (Fellow)

Federal Bar Association

Oklahoma Bar Association (Patent, Trademark and Copyright Section)

Oklahoma County Bar Association (Former President and Former Member of the Board of Directors and Bar Counsel)

Patent Office. He is also a country music songwriter whose copyrighted works have been recorded by singer-songwriter and collaborator Bob Fraley for the debut album, “Bootjack Romeo,” and his own album, “My Top Advice.”

In addition to being appointed on two occasions as a temporary judge on the Oklahoma Court of Appeals (attorney-staffed panels), John has served on various appointed committees and panels for the U.S. District Court for the Western of Oklahoma, including the Civil Justice Reform Act Advisory Committee, Merit Magistrate Judge Selection Committee, Arbitration Panel, and Early Neutral Evaluation Panel.

In addition to being appointed on two occasions as a temporary judge on the Oklahoma Court of Appeals (attorney-staffed panels), John has served on various appointed committees and panels for the U.S. District Court for the Western of Oklahoma, including the Civil Justice Reform Act Advisory Committee, Merit Magistrate Judge Selection Committee, Arbitration Panel, and Early Neutral Evaluation Panel.

John is a fellow of the American College of Trial Lawyers. His achievements have earned him inclusion in *Chambers USA Guide to America’s Leading Lawyers for Business*, *The Best Lawyers in America* (bet-the-company litigation; commercial litigation; intellectual property litigation; mass tort litigation/class actions – defendants; patent litigation; product liability litigation – defendants; trade secrets law) and *Oklahoma Super Lawyers*, which has named him to its prestigious list of “Top 10 Oklahoma Lawyers” for several years running.

John was selected by *Best Lawyers* as “Oklahoma City Patent Litigation Lawyer of the Year” for 2012, “Oklahoma City Intellectual Property Litigation Lawyer of the Year” for 2014, “Oklahoma City Mass Tort Litigation/Class Action Defense Lawyer of the Year” for 2015, “Oklahoma City Product Liability Litigation Defense Lawyer of the Year” for 2016, and “Oklahoma City Trade Secrets Lawyer of the Year” for 2017 and 2019, honors given to a single lawyer in each legal specialty in each market. He has also been perennially identified by *Benchmark Litigation* as a “Litigation Star.”

He is a frequent speaker and continuing legal education teacher on matters related to trial practice, evidence and intellectual property law.

Oklahoma City Chapter of the Federal Bar Association (Former President, Member of the Board of Directors, and Committee Chair)

State Bar of Texas (Inactive)

Ruth Bader Ginsburg Inn of Court (Master Emeritus)

## Civic Involvement and Leadership

Leadership Oklahoma City

Downtown Rotary Club of Oklahoma City

Town of Lake Aluma (Trustee)

University of Oklahoma College of Engineering (Senior Active Member and Past Chair, Board of Visitors)

University of Oklahoma K20 Center of Education and Community Renewal (Chair, Board of Advisors)

University of Oklahoma Honors College (Chair, Board of Advisors)

Westminster Presbyterian Church (Elder and Member of the Session)

Historical Society of the U.S. District Court for the Western District of Oklahoma (Treasurer, Board of Directors)

## Representative Experience

- Representation of clients in patent litigation involving business methods, consumer products, chemicals, dental equipment, industrial machines and processes, medical equipment, oil and gas equipment, gas well completion methods, valves, and other products and processes, including:
  - Obtained jury verdict and damages of \$9.9 million, plus more than \$2 million in prejudgment interest and costs, on behalf of the inventor of a medical device against a global medical technology company in patent litigation while serving as co-counsel. Judgment affirmed by U.S. Federal Circuit Court of Appeals.
  - Obtained order of dismissal for multiple defendants in a case alleging infringement of three patents on the basis the patents were ineligible under Section 101 of the Patent Act and, as such, unenforceable and invalid as a matter of law. Judgment affirmed by U.S. Federal Circuit Court of Appeals, certiorari denied by the U.S. Supreme Court.
  - Obtained a plaintiff's verdict in the U.S. District Court for the Northern District of Oklahoma for technology client for misappropriation of trade secrets and unfair competition, including findings of willfulness and punitive damages. Prior to trial, the court also granted summary judgment in client's favor on certain Lanham Act claims. Post-trial, following a jury verdict for the client, the court entered an order awarding damages and attorney fees for client.
  - Obtained order of dismissal for defendant in a case alleging infringement of a business method patent.
  - Representation of a grinding product manufacturer in defense of a claim of patent infringement resulting in a jury verdict of invalidity, a finding of inequitable conduct, and a finding for the client on its claim of tortious interference of business relationships in an amount in excess of \$2.1 million.
  - Representation of an inventor in patent infringement litigation involving a medical device resulting in a jury verdict for client in excess of \$14 million. Judgment affirmed on appeal to the Federal Circuit Court of Appeals.
  - Representation of an industrial equipment manufacturer in a patent infringement case resulting in jury verdict finding patent validity and a damage award and judgment for the client in the amount of \$1,583,202. Judgment affirmed on appeal to the Federal Circuit Court of Appeals.
  - Representation of a horse trailer manufacturer in a patent infringement case resulting in jury verdict finding patent validity and a resulting damage award and judgment for client in the amount of \$2,165,253.
  - Successful representation of a chemical manufacturer in a contested Australian patent proceeding.
  - Representation of patent owner in litigation and settlement of a case involving a new drug.
  - Representation of valve manufacturer in a patent infringement and breach of license agreement case resulting in judgment for client.
- Successful representation of parties receiving judgment in the trial court in appeals to the Federal Circuit Court of Appeals.
- Trademark, trade dress and copyright matters and litigation involving publications, storefront design, canned goods and consumer products.
- Counseling of manufacturers and businesses on intellectual property issues, including licensing, valuation, trademark and trade dress.

- Regional representation of major corporations in class action, multiple party and tort litigation.
- Successful trial of Hugoton gas field “deep rights” cases for major oil company.
- Successful representation of clients in environmental cases involving claims related to asbestos, chemicals and oil and gas operations, and of alleged toxic tort.
- Successful defense and trial of products liability cases involving automobiles, chemicals, consumer products, pipe and pharmaceutical products.
- Advice and counsel concerning matters related to products liability and related insurance coverage.

## Honors and Awards

- Elected Fellow of the American College of Trial Lawyers
- Listed in the *Chambers USA Guide to America’s Leading Lawyers for Business*
- Named a “Local Litigation Star” by *Benchmark Litigation*
- Selected by peers for inclusion in *The Best Lawyers in America* (bet-the-company litigation; commercial litigation; intellectual property litigation; mass tort litigation/class actions - defendants; patent litigation; product liability litigation - defendants; trade secrets law)
- Named “Oklahoma City Patent Litigation Lawyer of the Year” for 2012, “Oklahoma City Intellectual Property Litigation Lawyer of the Year” for 2014, “Oklahoma City Mass Tort Litigation/Class Action Defense Lawyer of the Year” for 2015, “Oklahoma City Product Liability Litigation Defense Lawyer of the Year” for 2016, and “Oklahoma City Trade Secrets Lawyer of the Year” for 2017 and 2019 by *The Best Lawyers in America*
- Listed in *Oklahoma Super Lawyers*
- Named to *Oklahoma Super Lawyers’* list of “Top 10 Oklahoma Lawyers”
- Rated AV Preeminent by Martindale-Hubbell Peer Review Ratings
- Honored with the Ruth Bader Ginsburg American Inn of Court’s John Shipp Award for Professionalism
- Honored with the Oklahoma County Bar Association’s Most Outstanding Member Award
- Honored by the University of Oklahoma Board of Regents and the OU Alumni Association with the Regents’ Alumni Award, which is presented annually to honor alumni and friends for exceptional dedication and service to the university (2013)