



## John L. Cooper

Partner

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John Cooper is the senior member and founder of the firm's Intellectual Property Litigation Group. He regularly represents technology companies in complex, high-stakes patent actions and cases at the confluence of intellectual property and antitrust issues. His typical role is that of the strategist and team leader. He will counsel his clients on high-level strategic issues, and assemble and lead a legal team that represents both their business and their legal interests.

Trained as a chemical engineer, John has also tried numerous cases to verdict outside of patent issues. With over thirty years of experience as a trial lawyer, and a track record that includes successfully representing many of the largest, most prominent companies in technology, John has also personally trained and mentored many leading trial lawyers. He regularly counsels technology companies in complex patent actions that often include additional issues such as international trade and antitrust. He has successfully guided clients through massive trials and appeals, and many of his clients have benefited from his success at obtaining summary judgment victories of non-infringement in patent actions. While his practice usually involves technology issues, John has also tried many antitrust, commercial and business actions as well.

Given his track record and his experience, John has proven to be a unique, effective advocate and counselor to his clients. He is an unparalleled strategist, with client relationships that in many cases, go back decades. He is particularly effective at working with clients on analyzing the implications and best course of action for the pivotal decisions that arise during the course of a major case – it's very likely he's encountered a similar situation before. It's also very likely he has previously appeared before the judge trying the case.

When questioning a witness, making an argument, or winning a key point is

### Services

- Antitrust
- Business Litigation
- Consumer Products + Manufacturing
- Intellectual Property Litigation
- Patent Litigation
- Technology

### Education

- University of Colorado (J.D.)
- University of Chicago (M.B.A.)
  - . Law and Economics
- Purdue University (B.S.)
  - . Chemical Engineering

### Bar Admissions

- California
- Colorado

absolutely critical, John brings to bear the *gravitas* and the reputation of a senior, nationally-known trial attorney with an extraordinary track record. He has a unique ability to be persuasive, effective, and above all, listened to. As an advocate, a trial lawyer, and a force in the courtroom, John has few peers.

John has served as Regent and is a long standing Fellow in the American College of Trial Lawyers. He was co-editor and co-author of "*Anatomy of a Patent Case*" published by the Federal Judicial Center to assist federal judges in patent cases. John has addressed the American Bar Association, the Ninth Circuit Judicial Conference, Intellectual Property Commissioners of the European Economic Community, and other legal organizations and published "Balancing Competitor Cooperation" in the *Antitrust Law Journal*.

### **Distinctions**

- *National Law Journal's* ADR Champions (2018)
- Top 30 Intellectual Property Lawyers in California by the *Daily Journal* (2005)
- *Best Lawyers in America* in the areas of Commercial, Antitrust, Intellectual Property and Patent Litigation

### **Memberships and Affiliations**

- Fellow, former Regent, American College of Trial Lawyers
- Judiciary Committee, Bar Association of San Francisco
- Chair, Lawyer Representatives, Northern District of California to the Ninth Circuit Judicial Conference
- Faculty, Hastings' Center for Trial and Appellate Advocacy
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## **Experience**

### **Dolby Laboratories v. Alcatel-Lucent Technologies**

We represented Dolby in seeking a declaratory judgment that Dolby's AC-3 ("Dolby Digital") technology does not infringe patents that Alcatel-Lucent had asserted against Dolby's licensees. Following protracted litigation, in which we obtained discovery sanctions against Alcatel-Lucent on multiple occasions and attorneys' fees at the conclusion of the case, we successfully obtained orders granting summary judgment of non-infringement on the patents-in-suit. The Federal Circuit affirmed the district court's orders awarding summary judgment and attorney's fees.

### **Bilski et al v. Kappos (561 U.S. 593 (2010))**

Submitted an amicus brief on behalf of Dolby Laboratories for the Supreme Court of the United States in the landmark *Bilski* ruling relating to business method patents. The Supreme Court relied on and cited for the proposition in overturning the Federal Circuit Court of Appeals opinion and addressing the scope of what is patentable under section 101 of the Patent Act. Specifically, that exclusive adoption of a "machine-or-transformation test" for patent eligibility "would create uncertainty as to the patentability of software, advanced diagnostic medicine techniques, and inventions based on linear programming, data compression, and the manipulation of digital signals."

### **UFCW & Employers Benefit Trust v. Sutter Health et al.**

Representing UFCW & Employers Benefit Trust in a class action complaint against Sutter Health, alleging that Sutter engages in anticompetitive conduct in violation of the California Cartwright Act and the state Unfair Competition Law. In October 2015, the Court of Appeal for the First Appellate District affirmed the trial court's decision holding that Sutter Health could not compel a union's benefits trust to arbitrate its putative class

claim that the health system overcharged millions of workers. (2015) 241 Cal.App.4th 909.

#### **AGF Reinsurance et al. v. Spar Aerospace LTD**

In an action testing the boundaries of industry-standard contracts, we defended the Canadian manufacturer of a communication satellite that malfunctioned after launch in an action brought by an international consortium of insurance companies that underwrote launch insurance for the mission.

#### **Dr. Bonner**

We represented Dr. Bronner's, a manufacturer of organic skin care products, in an action against several major cosmetic companies asserting that the skin care products of the defendants which were advertised and sold as "organic" were not in fact organic as understood by consumers in California. The critical issue in this action was determination of what constitutes "organic" ingredients in skin care products to justify advertising and presenting those products as "organic." After several years of litigation in state and federal courts in San Francisco, the matter is currently pending before the USDA.

#### **Microsoft Antitrust Litigation**

One of our partners was appointed to be the Special Master for the consumer class action and competitor class action lawsuits filed against Microsoft for its alleged antitrust violations, including the use of technological developments to stifle competition. The consolidated case was pending in the District Court in Baltimore, Maryland.

#### **Plywood Antitrust Litigation**

Won a jury verdict for the plaintiff class in the amount of approximately \$2 billion in a trial representing all purchasers of plywood in the U.S. and successfully defended the verdict on appeal in the Fifth Circuit arguing against Robert Bork. The case was ultimately settled for \$168 million while pending before the U.S. Supreme Court. Reported at 655 F.2d 627 (5th Cir. 1981).

#### **Scheiber v. Dolby**

We successfully obtained summary judgment in favor of our client, Dolby Laboratories, Inc., in the Indiana District Court on the issue of bundling United States patents with foreign patents. The judgment was affirmed by the Seventh Circuit, and a writ of certiorari denied by the Supreme Court.

#### **Warner Bros. Records v. SeeqPod**

We defended search engine SeeqPod in a copyright infringement matter brought by Warner Brothers Records and several other major music labels in the Central District of California. Warner is alleging that SeeqPod's technology allows the infringement of copyrighted materials, and is seeking a preliminary injunction. We are defending the action based on a number of "safe harbors" under the Digital Millennium Copyright Act ("DMCA").

## **Publications**

June 2, 2015

**Major League Baseball is Exempt From the Antitrust Laws — Like it or Not**

February 27, 2015

**Ninth Circuit Rejects San Jose's Bid to Overturn Baseball's Antitrust Exemption**

January 10, 2013

**Justice Department and Patent Office Issue "Policy Statement" Regarding Remedies for Standards-Essential Patents**

December 20, 2012

**FTC and DOJ Explore Role of Patent Assertion Entities in the Patent Innovation Market**

December 4, 2012

**Anatomy of a Patent Case, 2nd Edition**

## Outside the Office

John is a vintner, owner of a pinot noir vineyard in Sonoma, California. He is also on the San Francisco Mental Health Association's board of directors, an avid sailor, bicyclist and past president of the Cow Hollow Association.