

MVP: Brooks Kushman's Christopher Smith

By **Dani Kass**

Law360 (October 21, 2024, 11:36 AM EDT) -- Brooks Kushman PC shareholder Christopher Smith has won a series of Patent Trial and Appeal Board proceedings for Ford Motor Co. and helped the automaker cut a \$105 million jury verdict down to \$3, earning him a spot as one of Law360's 2024 Intellectual Property MVPs.

His biggest accomplishments this year:

Safe Driving Technologies LLC sued Ford in 2021, telling a Delaware federal court the automaker infringed several telematics patents, which involve combining functions such as communication and entertainment systems to reduce distractions for drivers.

Ford and Brooks Kushman responded by filing four petitions for inter partes reviews, which were unquestionably successful. Safe Driving decided to donate one of the patent's challenged claims to the public. That left 43 challenged claims across three patents, and the board invalidated all but one dependent claim.

Those IPRs are on appeal, with Smith on the Federal Circuit team.

"Ultimately, assuming we can finish it off at the appeal, there's a good bet that case just falls off," Smith said. "We were able to stay the district court litigation while it was pending at the PTAB, so the client saved a lot of money, and we've gotten good results as well, as a deterrent."

In separate litigation over automotive configuration software, a Michigan federal jury put Ford on the hook for \$105 million. The trial was based on Versata Software's claims of trade secret misappropriation and breach of contract. The litigation originally featured patent and copyright infringement claims but was narrowed before trial.

The verdict didn't go far. The team featuring Brooks Kushman attorneys persuaded the trial judge to wipe that damages verdict, awarding nothing for trade secrets and \$3 for the breach. That ruling is also on appeal at the Federal Circuit.



"Versata is a mammoth case," Smith said. "Having that verdict turned down to \$3 is something you don't see every day. I spent years on that case. I got involved in 2015 or 2016."

His biggest challenge this year:

Smith is also involved in litigation centered on standard essential patents in the telecom space. He said the technology is "extremely dense," and learning it "has definitely been a big challenge."

"It's not necessarily my focus regarding my engineering background," Smith said. "I have a degree in material science engineering — polymers, electrical materials, metals, biomedical — it's not as focused on the hard electrical engineering signal analysis, etc. I've worked on all kinds of cases throughout my career, but some of these [long-term evolution] patents are very, very dense patents and very, very detailed in what they cover. You've got to really study up on it."

Why he's an IP attorney:

While working on that material sciences engineering degree at the University of Michigan, Smith said, he started to feel less interested in pursuing a career on the technical side.

"It became clear to me that I liked it, but I didn't love it," Smith said. "I started to look at what other things you could do with an engineering degree that isn't necessarily hardcore engineering all the time. That's how I ended up ultimately with law."

"I've also always been into politics, and argumentative, if you will, so it ended up being a good match because it allowed me to scratch that itch but also still utilize my love for the sciences and my technical background," he said.

His advice to junior attorneys:

Whenever newer attorneys are given the opportunity to try something, they should jump on it, Smith said. He cited an example from one of his first years as an associate.

"We had a litigation meeting at my previous firm, and they threw out there like, 'We have to do these depositions,' so I raised my hand. It was actually just a little authentication deposition, but I flew from California to New York City to take a 20-minute deposition. It was my first deposition.

"Depositions, hearings, writing a brief, you name it, meeting a client — if the option is presented, don't cower from it. Lean into it, because that will put you in a stronger position from an experience standpoint, make you more marketable within your firm or external to your firm, and at the end of the day, you're building your own skill set. You don't build skills without trying new things and embracing them."

--As told to Dani Kass. Editing by Drashti Mehta.

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