



## Jan M. Conlin, Partner Robins Kaplan, Miller & Ciresi

[5-10-04 by Cary Griffith]

Through her involvement in some monumental intellectual property cases involving a few of the country's largest and most respected corporations, Jan Conlin has made quite the name for herself, despite never having envisioned the practice of intellectual property law as her ultimate career.

Over the last decade, Jan Conlin has been lead counsel or co-counsel on some of the largest intellectual property cases to see the inside of a courtroom. In August 2003, an Illinois jury found in favor of Ms. Conlin's clients Eolas Technologies, Inc. and The Regents of the University of California. The case involved browser technology and was brought against industry giant Microsoft Corporation. The award, against Microsoft, was for \$520.6 million.

Ms. Conlin was also counsel for Pitney Bowes in Pitney Bowes Inc. v. Hewlett-Packard Co., which involved a patent dispute over laser jet printers. In that case, she helped her client obtain \$400 million and certain intellectual property from Hewlett-Packard.

In Honeywell v. Minolta, Ms. Conlin was counsel for Honeywell in a case involving auto-focus technology. In that action, her client Honeywell obtained a \$96.3 million verdict and, through that litigation and related litigation, additional royalties approaching \$500 million.

With numbers like these it's easy to see why companies with complex technology products are seeking Ms. Conlin's opinion. And yet, having graduated from the University of St. Thomas with a Bachelor's degree in Political Science, her intellectual property (IP) litigation practice wasn't a foregone conclusion.

"I thought I was going to have an interesting career in products liability and mass tort," Ms. Conlin explains. But in 1990 her firm received a large patent infringement case and she was recruited to work on it. She's been practicing in IP litigation ever since.

Having worked on these and similar cases, one assumes her answer to an enquiry about her biggest personal accomplishment would involve one of the largest multinational technology companies on the planet. Surprisingly, it was a pro bono case involving the custody of a toddler.

Ms. Conlin was born and raised in Williston, North Dakota, a remote community on the Canadian and Montana borders. About a million miles from anywhere, it was nevertheless the place where Ms. Conlin's mother first taught her that she could go wherever her aptitude and attitude took her. Her mother might be surprised to know her advice has led Ms. Conlin into prominence among the nation's intellectual property litigating ranks.

### Q: How did you first become interested in the law?

A: I became interested in law when I was an undergraduate at St. Thomas. I actually ended up doing some babysitting for Mike Ciresi [of Robins, Kaplan, Miller & Ciresi]. He got me interested in law and encouraged me to go to law school. I went to the University of Minnesota Law School in 1985.

I clerked at Robins while I was attending law school. When I graduated, I came to work for the firm full time.

### Q: What interested you in intellectual property law?

A: I thought I was going to have an interesting career in products liability and mass tort. But after I started at Robins in 1990 we received a large patent infringement case on behalf

of Honeywell against the Japanese camera industry. At the time we did not have an in-depth bench in the IP area.

Mike Ciresi asked me if I was interested in that particular area of the law. I said, 'not particularly,' but I was interested in working on the case and trying it with him. I jumped in at that point and did that case. I've been very heavily involved and very interested in IP law ever since.

### Q: So you didn't begin with a background in patent law?

A: I don't have an IP background. That was one of the reasons I wasn't sure if this was something that was well suited to my background. But what I've found is that patent law cases aren't really different than other cases. You need to learn the technology and make sure you surround yourself with very good technical experts who can make sure that you understand the technology.

### Q: The Honeywell case was a huge win, wasn't it?

A: Right. We had a verdict for a little over \$96 million against Minolta. It was a six month trial. It was a long time to be away from home and be in New Jersey. Particularly since, at the time, I was recently married.

Then we settled with Minolta for \$128 million. Then we pursued the rest of the camera industry and I think we ultimately obtained over \$500 million in royalties for Honeywell.

Mike Ciresi tried that case. I was the one who got Mike prepared every day. I was a pretty



young associate at that point—that was my first trial.

**Q: Could you tell us about some of the largest, or most memorable cases on which you've worked?**

A: Most recently, last summer, two partners and I tried a patent infringement case against Microsoft in Illinois. We tried that case for about eight weeks and received a jury verdict of \$520 million. Then the judge denied all of Microsoft's post-trial motions. So we have a judgment right now of, I think, \$566 million. I believe that's on appeal to the Federal Circuit.

We should get a decision on that case from the Federal Circuit early next year, so it's not a situation on which we'll be waiting around indefinitely to find out whether we're right or wrong. That case has been one of the more interesting cases I've tried.

I've done some trials for Medtronic, and I had a recent case (again, with Mike Ciresi) for Pitney Bowes. We settled it in 2001 on the first day of trial. It was a case against Hewlett Packard involving patent infringement of one of Pitney Bowes' laser printing patents. We were able to settle that case for Pitney Bowes for \$400 million in cash, and the right to certain Hewlett Packard patents on a go-forward basis. I would consider this case one of my other big achievements.

**Q: Over the last decade, how has the practice of intellectual property law evolved?**

A: There are more IP cases out there. Companies have gone from looking at their patent portfolios purely from a defensive standpoint to saying that if I have technology in that portfolio that I could license or otherwise seek recovery on, that's something I need to do because that's an important return for our shareholders. There are a lot of companies that spend a lot on research and development and can't commercialize all the ideas that they produce. More and more

companies are looking at their portfolios in their non-commercialized areas and asking "can I derive revenues from licensing that technology?"

**Q: How do you think the public's perspective about intellectual property law has evolved?**

A: I think there's a general perception and understanding in this country that one of the foundations of our continued success in the global economy is protection of U.S. property rights. This country has a long history of being an innovator. I think it's really important to continue that trend and continue to respect IP rights for that reason.

**Q: Today, is it easier or more difficult to litigate intellectual property issues?**

A: There are more cases out there. A lot more judges are familiar with patent law. That helps in understanding the cases and in moving the cases forward. But I also think the increase in cases has led to a lot more appellate decisions and a lot more nuances that require you to really be on top of what the Federal Circuit is saying.

**Q: What do you consider some of the greatest IP challenges facing the corporate world?**

A: I think we need to continue to insure that U.S. IP rights are respected, especially in a global economy where people can import things that in some instances can be made more cheaply overseas. If U.S. companies have invested in protecting their portfolios, a good way to insure that they are able to be competitive is to make sure U.S. patent rights are respected.

**Q: How do you feel about tort reform regarding limiting the amount of damage awards?**

A: This is unrelated to IP, but what I believe—and I believe this strongly—is that there is a misperception regarding the tort system. There have been a lot of statistics bandied about that are not necessarily

reflective of what's actually occurring in that practice area. For example, people talk of jury verdicts being out of control and the number of tort cases growing exponentially. But various statistical studies, done by a number of independent U.S. groups, indicate the number of tort filings has dropped precipitously in the last twenty years. And in fact jury verdicts are no higher on average than at any previous point [in litigation history].

I think what the press does is take an individual case and they run it on CNN and every other news organization. People look at that and believe that's what's happening everywhere, when in fact that's not accurate. Statistical studies bear that out.

**Q: Do you have any advice for young lawyers who want to start practicing IP law?**

A: For at least the next ten years IP law will continue to be a very high profile and highly energetic area of law. U.S. companies are looking at their portfolios right now. Patents are becoming more important as we continue to compete globally. And it's a great area of law to get into.

You have to have some sort of aptitude for science. For example, in my career I've had to learn how Microsoft's Windows products operate on a technical level and how the Internet operates on a technical level.... how postage meters operate, and medical devices function. You have to like getting your hands dirty on the technical details, otherwise it's not really an area you're going to find interesting.

**Q: What do you like best about practicing law?**

A: I love the intellectual challenges of patent law. There are a lot of ways you can win or lose a patent case, which makes it interesting. It's a chess game and you have to figure out where you're going on move sixty-five before you ever move your first piece.



Ultimately I consider myself a trial lawyer. I like trying the cases, and I like the people with whom I work.

**Q: What do you like least about practicing law?**

A: I have cases all over the country, and a family at home. All things being equal, I wish all of my cases were venued in Minnesota. Unfortunately, right now I have cases pending in New Jersey, Connecticut, Kentucky, Michigan, Illinois, and California. I'm trying to get to the point where I have other people go, but I end up doing a fair amount of travel.

**Q: Family?**

A: My husband's name is Gene. We met in law school. He's a retired lawyer, in charge at home. I have two daughters, ages 8 and 9.

**Q: What are some of your all-time favorite reads?**

A: Fiction: I loved Larry McMurtry's Lonesome Dove. Nonfiction: John Adams.

**Q: Do you have a hobby?**

A: Hanging out with my family and doing art projects with my kids.

**Q: Where are you planning to spend summer vacation?**

A: Usually we go to my hometown in Williston, North Dakota, near the Canadian and Montana borders. We like to take the train up there, get a sleeping car and spend time with my family.

**Q: What is your biggest personal or professional accomplishment, and why?**

A: My biggest personal accomplishment was a pro bono case I handled a while ago - a woman who had raised her child from birth. She and her husband had raised the adopted

child, who was two years old. The biological father appeared, and for some reason the court decided to turn the child over to him. But he was unfit to be a parent. He took the child to North Dakota. They took one look at the individual's record, including patterns of domestic violence, and things like that, and we were able to get the baby back to his adoptive parents within a week. It was very personally satisfying for me.

**Q: Who do you admire and why?**

A: My mother. We've had a lot of hard times, and good times in our family, and she's been somebody who has always shown me how to remain grounded. She has always told me I can do or be wherever my aptitude and attitude takes me.