



HELLMUTH
&
JOHNSON

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OVERVIEW

Jon Jay's practice focuses on assisting business owners and companies with disputes arising from patents, trademarks, copyrights, trade dress, trade secrets, defamation, commercial disparagement, false advertising, and residential and commercial first-party insurance coverage matters including claims of alleged bad faith.

Clients look to Jon for solutions to challenging and unusual cases that directly affect the success of their businesses. For a decade prior to joining H&J, Jon headed his own successful business, a full-service intellectual property firm in downtown Minneapolis. Jon brings a unique perspective and understanding when assisting his clients and is able to help them navigate the complex waters of litigation to reach a resolution in a timely and cost-effective manner. Recently one of Jon's large retailer clients successfully resisted a series of copyright infringement claims arising from the nationwide sale of its textile products. With Jon at the helm, the client was able to quickly resume its business without the distraction of litigation.

A seasoned trial lawyer, Jon has successfully represented business clients in lawsuits throughout the United States and abroad and has litigated and resolved many complex intellectual property and insurance cases in over thirty different state and federal forums. He is admitted to practice before the state and federal courts of Minnesota and is also admitted to the Supreme Court of the United States, the Federal Circuit Court of Appeals and other federal courts of appeal and federal district courts. Jon's first-chair trial experience includes numerous jury verdicts in Minnesota, Wisconsin, California, Nevada, and Washington.

EXPERIENCE

Copyright Cases:

- Jon lead the defense of a Virginia-based medical benefits and compensation consulting firm sued for alleged copyright infringement and misappropriation of trade secrets arising from departure of former executive. Following intensive discovery, fact investigation and mediation, case settled on terms favorable to Jon's client.

PRACTICE AREA

Business Litigation
Class Action Litigation
Complex Litigation
Insurance Litigation
Intellectual Property

ADMISSIONS

Minnesota State and
Federal Courts
Supreme Court of the
United States
United States Court of
Appeals for the Federal
Circuit

EDUCATION

University of Minnesota -
Twin Cities, J.D.
University of Minnesota -
Duluth, B.A., magna cum
laude

- Jon represented a major nationwide retailer in a series of suits alleging copyright infringement arising from the sale of teen apparel. Following investigation and discovery, and a successful motion to dismiss a copyright infringement claim asserted in California federal court, resolutions favorable to Jon's client were reached in the remaining suits.

Patent Cases:

- Successful defense of claims in inter partes review of client's patent involving technology related to horizontal wood grinding.
- Following an intensive discovery period, including retention of experts, working with foreign witnesses, drafting reports and preparing for hearing, Jon defeated the plaintiff's Motion for Preliminary Injunction by showing the court that the Patent-in-Suit was of questionable validity.
- Jon led the successful defense of a Minnesota company accused of patent infringement litigation. Jon secured two favorable summary judgment rulings, followed by settlement of case. See *Centennial Molding, Inc. v. Carlson*, 401 F. Supp. 2d 985 (D. Neb. 2005); 2006 WL 346324 (D. Neb. 2006).

Trademark Cases:

- Jon defended a California company that pioneered tour and travel packages for "adult swingers" in trademark case. Following month-long jury trial in Orange County, California, Jon secured a defense verdict for his client which included compensatory and punitive damages awards.
- Jon represented a multi-national retailer in patent, trademark and trade dress lawsuit in Nevada federal court. Jon's client prevailed on summary judgment motions to dismiss patent and trade dress claims, and on motions for sanctions against opponent for discovery violations. The case was tried to a jury who delivered a verdict in favor of Jon's client. The case was appealed to Federal Circuit Court of Appeals, which affirmed all decisions before the trial court in a per curiam decision. See *Carpad, Inc. et al. v. Brookstone Company, Inc.*, 2006 WL 2883100 (C. A. Fed. 2006).

Trade Dress Cases:

- Jon defended an Arizona manufacturer of after-market auto parts in case involving multi-million dollar demands arising from claims of trade dress infringement asserted by a competitor. Following discovery and depositions, all trade dress and related claims were dismissed on summary judgment, leading to resolution and dismissal of case.
- Jon led the defense of a large RV manufacturer in a case filed by national competitor alleging trade dress infringement and other claims. The court granted Jon's client's Rule 12 motion to dismiss the trade dress claim. See *Forest River, Inc. v. Winnebago Indus.*, 2017 U.S. Dist. LEXIS 20486 (N.D. Ind. Feb. 14, 2017).

Coverage Cases:

- Jon led the defense of USF&G in property insurance coverage dispute in Minnesota federal court. The dispute arose over the meaning of "direct physical loss" in business interruption coverage provision relating to "mad cow" losses. The case was initially dismissed on summary judgment in favor of USF&G by the district court. The policyholder appealed to the 8th Circuit, and won a reversal. The defense motion for panel rehearing was granted by the 8th Circuit and the original grant of summary judgment was reinstated by the 8th Circuit. See *Source Food Technology, Inc. v. USF&G*. 456 F.3d 8374 (8th

Cir. 2006) (Reported as Feature Article in Insurance Litigation Reporter, Vol. 28, No. 21, December 2006).

- Jon first-chaired the defense of a major property and casualty insurance carrier in a two-week long jury trial involving claims of fraud, bad faith and breach of contract. The jury returned a verdict for the defense.
- Jon had lead responsibility representing a national property and casualty insurance company in Minnesota federal court for alleged multi-million dollar losses that arose from damage to original fine art work. Following intensive discovery and motion practice, Jon resolved the case for a fraction of the demand.

Class Action Matters:

- Represented a major nationwide retailer of auto parts in a class action lawsuit which resulted in a favorable resolution for the client.

AFFILIATIONS

- Member, American Intellectual Property Law Association
- Member, Hennepin County Bar Association

HONORS & AWARDS

- Named to the Rising Stars list by *Minnesota Law and Politics*