

Trials Group Of The Year: Keker

By **Ryan Boysen**

Law360 (February 18, 2025, 4:03 PM EST) -- Attorneys at Keker Van Nest & Peters LLP prevailed at trial last year in a \$1.4 billion patent case with major implications for the global diabetes care market, one of a handful of courtroom victories that earned the firm a spot among the 2024 Law360 Trials Groups of the Year.

Founded in 1978 in California, Keker Van Nest has traits that set it apart from both fellow litigation boutiques and the BigLaw firms it routinely faces off against.

It only has one office: a large renovated warehouse three blocks from San Francisco's historic waterfront. There's a single equity partnership tier and clients are shared; there are no origination credits or any other hallmarks of eat-what-you-kill style compensation.

There are also no internal departments — every Keker Van Nest attorney is expected to be a generalist who can handle anything from legal malpractice cases to complicated business disputes. And strangely, for a firm that's known for intellectual property litigation, only a handful of its attorneys have any sort of technical background.

"We want people here to be able to try any kind of case," said Robert Van Nest. "We do think a technical background can be useful, but at the end of the day we're focused on trying cases for the jury."

Sharif E. Jacob, a partner at the firm, echoed that sentiment.

"That means the jury has to understand what you're saying," Jacob said. "If you go up there and speak like a robot, they'll have no idea what you're talking about."

While the firm's headcount has doubled in the last 15 years — from roughly 63 attorneys in 2010 to about 138 now — almost none of that growth has come in the form of lateral hires.

The firm also maintains a remarkably low 2:1 ratio of associates to partners, underscoring its commitment to giving every associate a meaningful role on Keker Van Nest's busy trial schedule from day one.

"The partnership here is really a homegrown group," said Robert Van Nest. "We go out and hire the best



and brightest, and then we go to trial again and again and again. By the time you're a partner at Kecker, you know how to try a case. That's a real differentiator."

The merits of that approach were on full display last year, as Kecker Van Nest attorneys prevailed in several complex cases with billions of dollars on the line.

In *Abbott Diabetes Care v. Dexcom*, for instance, Kecker Van Nest defended San Diego-based diabetes care giant Dexcom against claims that its continuous glucose monitors infringed 12 of longtime rival Abbott's patents.

Abbott sought \$1.4 billion in damages, and at one point tried to introduce a legal theory that could have tacked on an additional \$1.5 billion in damages. The Kecker Van Nest team managed to exclude that second damages theory from trial with a Daubert motion, then narrowed the number of patents at issue to just four by March.

After a week-and-a-half-long trial, a Delaware federal jury found that Dexcom had infringed one patent, cleared it of infringing two others and then hung on the fourth.

"We came out of trial with no damages award," said Sophie Hood, a Kecker Van Nest partner on the Dexcom trial team. "We couldn't have been more thrilled with that outcome."

That victory helped pave the way for a global settlement between Abbott and Dexcom in January 2025 that ended a worldwide flurry of litigation over the glucose monitor patents.

"The details are confidential, but I will note that the agreement did not include any royalties or other payments," Hood said. "Dexcom felt very good about the settlement."

In January 2024, a Kecker Van Nest team fought off claims by Massachusetts startup Singular Computing LLC that Google ripped off its technology to power the tech giant's artificial intelligence products.

Singular sought \$1.6 billion in damages in the patent infringement case, which centered on Google's Tensor Processing Units, custom-made computing chips designed to power AI models.

Singular founder Joseph Bates claimed he'd repeatedly pitched Google on his AI-specific computing architecture ideas, and that Google then adopted his innovations without credit or permission.

At trial, the Kecker Van Nest team used an oversized model TPU to highlight the differences between that chip's design and Bates' designs, put Google's chief scientist Jeff Dean on the stand, and even managed to explain away several emails in which Google engineers expressed being indebted to Bates' concepts.

"The trial went better for us than anyone could've imagined," Van Nest said.

After two weeks of trial, Google and Singular reached a confidential settlement on the courthouse steps, just before the jury was due to hear closing arguments.

"I think they felt that their case was in jeopardy," Van Nest said.

Over the summer a Kecker Van Nest team notched another win by defending California hospital chain Sutter Health from a \$519 million whistleblower lawsuit accusing it of overbilling insurers.

The whistleblowers claimed Sutter Health's anesthesiologists performed expensive nerve-blocking procedures in operating rooms, which allegedly allowed them to bill far more than if those procedures were performed outside the OR. The whistleblowers also claimed that patients were routinely kept too long in recovery rooms after surgery.

During trial, the Keker Van Nest team attempted to steer the narrative away from insurance fraud and towards the hazards of second-guessing highly trained doctors.

"We realized from the outset that the relators' theory of the case boils down to arguing that you should get less safe care, in less safe conditions, than what the doctors are prescribing," said Jacob, a partner on the trial team.

During the weeks-long bench trial, an expert put on by the whistleblowers began throwing out brand new case comparisons to make her point about the nerve-blocking procedures, which weren't contained in her earlier report.

After a brief recess, the Keker Van Nest team was able to shoot those new theories full of holes and show that she'd discussed them with her lawyers, but those lawyers had never mentioned them until then.

Shortly thereafter, the whistleblowers agreed to drop that half of the case, and Sutter Health ultimately prevailed on the recovery room claims as well.

"We made it very simple," Jacob said. "Sutter CEOs are not sitting around telling doctors how to make their decisions. When the doctor decides the patient is cleared to go home, that's when the billing ends."

Last year, Keker Van Nest also secured a complete defense verdict on behalf of cybersecurity company Fortinet in a \$140 million fraud and breach of contract case brought by customer outsourcing firm Alorica, and mostly fought off a breach of contract case by software company Synopsys Inc. against Keker Van Nest client Real Intent Inc.

Synopsys sought roughly \$41 million in damages, but was only awarded \$550,000 at trial.

"Thankfully the jury credited our witnesses and rejected Synopsys' claim of \$41 million in lost profits," said Ryan Wong, a partner on the trial team. "In our view, the outcome of the trial was incredibly satisfying."

--Editing by Adam LoBelia.
