

Litigator of the Week: Landing a \$525M Patent Verdict Against Amazon Web Services

By Ross Todd

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Our Litigator of the Week is **Courtland Reichman**, the managing partner of trial firm **Reichman Jorgensen Lehman & Feldberg**. Federal jurors in Chicago last week handed his client Kove IO a [\\$525 million patent infringement verdict](#) after finding that Amazon Web Services infringed three Kove patents related to data management and cloud storage.

Lit Daily: Who was your client and what was at stake?

Courtland Reichman: Our client was a Chicago company called Kove. It was founded decades ago by two University of Chicago PhD grads, Dr. John Overton and Dr. Stephen Bailey. Right after graduating, they invented technology that enabled the hyper-scalable cloud we know today. They were years ahead of their time. Five years after their invention, MIT determined that this technology was among the top 10 technologies most likely to change the world. What was at stake in the case was demonstrating that Drs. Overton and Bailey invented this important tech.

What was the underlying technology here? And how did you make it digestible for jurors?

This was an extraordinarily complex case. It involved foundational technology relating to the



Courtesy photo

Courtland Reichman, managing partner of Reichman Jorgensen.

architecture for a cloud storage system that can handle hundreds of trillions of data objects, which are things like movies, files, websites—essentially anything that can be stored. We spent hours teaching the technology to the jury and walking through the patents and Amazon’s accused products in painstaking detail. Our expert witness, Professor Michael Goodrich, was on the stand for over eight hours. Our damages expert, Jim Bergman, also spent hours on the stand breaking down the benefits of the invention in tangible terms for the jurors. These two experts were able to bring the technology alive for the jury.

Who was on your team and how did you divide the work?

In terms of roles and responsibilities, the work was divided among team members, with a priority on younger lawyers taking leading roles. The trial effort was led by **Christine Lehman** and me. **Jennifer Estremera** led efforts on jury selection, as well as trial management, opening, and closing. **Amy Ruhland** led the direct examinations of our client and the inventors, along with **Gina Cremona**. **Khue Hoang** presented Kove's industry expert, making concrete for the jury the importance of the patented invention. She also skillfully cross examined Amazon's surprise marketing witness. **Jaime Cardenas-Navia** led the heart of the case, presenting Kove's infringement expert in the case in chief and rebuttal—all of which was made possible by the technical acumen of **Phil Eklem**. **Adam Adler** led our damages case, presenting a compelling case of the over \$1 billion in profits Amazon made from the patented invention, supported by **Shawna Ballard**. He also cross examined two Amazon engineers, making clear to the jury that their testimony corroborated Kove's case.

Khue, assisted by Phil and **Naveed Hasan**, took the lead on successfully defeated multiple IPRs and reexams pretrial, and architecting the client's validity case. Christine Lehman was responsible for presenting that case at trial.

Christine led the cross of Amazon's key witness, the engineer who was the "father" of the system accused of infringement. Christine demonstrated to the jury how his testimony established infringement. She also cross examined Amazon's damages expert, demonstrating Amazon's theory was based on speculation alone.

Savanah Carnes took the lead on in-court legal arguments and jury instructions, and **Brian Baran** was our overnight brief writer.

We are fortunate to have the best paralegal team in the business, led by **Mira Yohannes** and **Chris Jason** as our Swiss army knife.

Finally, I was responsible opening, closing, and cross examining the president of Amazon Technology and Amazon's non-infringement expert. We took the Amazon Technology president on adverse examination in Kove's case in chief, establishing that it lacked a good faith non-infringement position. The cross examination of Amazon's technical expert established the lack of factual basis for Amazon's non-infringement positions, beyond the expert's say so. **Navid Bayar** and I worked as team on these cross examinations.

The division of responsibilities does not do justice to how our team operates. Everyone works on everything. The key to our trial successes is collaboration, and sharing the best ideas from all involved regardless of seniority or experience.

What were your key trial themes and how did you drive them home with the jury?

Our primary themes were:

- (1) We had a mountain of evidence we were going to present it in painstaking detail. We wanted the jury to evaluate the evidence. (We had a very educated jury, who were focused on the merits.)
- (2) This was a case about a poor kid from Kentucky who was failing out of college when he was saved by religion, which ended up taking him to Harvard and the University of Chicago, and eventually a career in computer science. While it was about patents, the case was really about people, and ultimately the American dream.
- (3) This was a tale of two cases: fact vs. fiction. Kove was showing its work, and its position was based on detailed evidence and analysis. AWS asked the jury to take its word for it, and did not show its work.

We drove these themes home from the beginning to end. Here were the first few words said to the jury: "This is a case about a poor kid from Kentucky who was failing out of school, and then he found

religion. Now, I'm sure you're sitting there asking yourself, I just heard all this stuff about patents. I thought this was a patent case. It is. It's a patent case, but it's a story about people, actually, people who did things. And it's a story you're going to hear about the American dream, about a kid who was doing poorly in school, found religion, that those religious studies took him to Harvard and the University of Chicago, not too far from here. And along the way, he discovered that he had a knack for computer science."

The themes were reinforced through direct and crosses—repeatedly. Each witness touched on the first and third themes, and our fact witnesses discussed theme #2.

The court in this case allowed the jurors to ask questions during trial. How did that process work? And what did you glean from the jurors' questions?

The process was fascinating. I had never done that before, and was initially against it. One of our relatively recent law clerks, **Savannah Carnes**, convinced us that it was a useful tool based on her experience clerking, so we decided to try it. We became big fans of the approach. The jurors seemed much more engaged with the evidence because they could participate by asking questions. Their questions followed direct and cross examinations—the witnesses stayed on the stand to answer. The questions were generally excellent—either cutting to the heart of issues, or showing areas of confusion that needed to be cleared up. Being able to ask questions is key to learning and making decisions. Thinking about it, it's odd that we expect people to decide matters of importance without being able to ask questions.

The jury sided with you on infringement in regards to all three patents and against Amazon

on all its affirmative defenses, but didn't find Amazon's infringement was willful. Do you have an idea of why you weren't able to get over the hump on willfulness?

I think it reflects the discerning and evidence-based approach this jury took. There were credible arguments on both sides of the willfulness question, and this was not a jury that simply decided the case on emotion or feel. That the jury found in favor of AWS on some issues shows they were able to evaluate the evidence and reach their own conclusions.

What can others take from what you were able to accomplish here?

Patents matter. Protecting patents matters. America's role as the world's leading innovator depends on the strength of our protection of inventions. Patents are in the Constitution for a reason—it is considered a foundational principle that inventors are to be protected. In that regard, patents also play a role in increasing competition and preventing monopolies from taking hold—if inventors are provided a limited period of exclusivity, as the law provides, then competition increases and consumers benefit. The decision shows that the system can work, and that inventors can obtain relief when their statutory exclusivity is violated. It is a cautionary tale for would-be infringers.

What will you remember most about this matter?

The attentiveness, thoughtfulness, and spirit of the jurors. This case involved complicated technology. The technical experts were on the stand for over 12 hours. The jury never lost focus, and was paying close attention and asking questions. Once they were sworn in by the court, they took their public service extremely seriously. It was inspiring.