

# Mark Murphey Henry OF COUNSEL

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Mark is rated as AV-Preeminent™ in both legal ability and ethics, and he serves as counsel in complex federal litigation representing universities, agricultural companies, software development companies, retail vendors, and multi-national corporations having intellectual property rights in the United States. He is a registered patent attorney and earned a Master of Laws (LL.M.) in agricultural law.

His federal court jury trial litigation experience includes patent, copyright, trademark infringement, trade secret and non-competition enforcement, business and insurance coverage disputes, and education law.

Mark teaches agricultural biotechnology law in the LL.M. program at the University of Arkansas School of Law in Fayetteville, Arkansas.

He is licensed in AR, OK, MO, KS, TX, and KY.



## SERVICES

- Antitrust
- Complex Federal Litigation
- Construction
- Intellectual Property
- State and Local Government

## INDUSTRIES

- Agriculture
- Computer Software
- eCommerce
- Manufacturing
- Retail

## EDUCATION

University of Arkansas, LL.M. Agriculture Law

University of Arkansas, Juris Doctor (honors)

Hendrix College

## HONORS

- Martindale Hubbell – AV Preeminent Rating
- Best Lawyers in America – Patent Law and Trademark Law
- Mid-South Super Lawyers – Top Rated Intellectual Property Law
- Mid-South Super Lawyers – Rising Stars 2008
- Avvo Rating – 10.0 Superb

## EXPERIENCE

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- Complex Federal Commercial Litigation – Intellectual Property
- Computer code (Plaintiff) -- e-commerce software – Two-week jury trial whereby a unanimous jury awarded a \$12.4 million dollar verdict to our client against national retailer for misappropriation of trade secrets and computer coding know-how.
- Trade Dress and Trademark (Defense) – toy industry – Trademark, trade dress, and copyright infringement claims we asserted were invalid or unenforceable. Opposing party dismissed its entire case, received no payment, and released our clients from any infringement allegations or claims.
- Counterfeit and Trademark Claims (Plaintiff) – agricultural device – Weeklong trial whereby unanimous jury awarded our client \$375,000 for intentional trademark infringement and \$191,699 in attorneys’ fees and costs.
- Plant Variety Protection Act Infringement (Plaintiff) – biotechnology/seed piracy – Representing a public agricultural research university, we secured judgments and settlements totaling \$616,000 against 17 defendants for infringement of proprietary wheat seed. We initiated the case and secured Emergency Order that led to a surprise seizure of critical evidence from the business at the epicenter of the seed piracy network.
- Right of Publicity (Defense) – television rights – We defended a television show producer for invasion of privacy claims and positioned the case for dismissal on First Amendment and intellectual property grounds. The original plaintiffs ultimately dismissed case without any settlement or recovery.
- Trade Secrets/Copyrighted Tele-radiology software (Defense) – Defended against original claims of infringement and trade secret misappropriation. Our computer expert easily obtained in the preliminary injunction hearing the very information the plaintiff claimed was secret, which was important to the Court’s decision to deny plaintiff relief.
- Patent infringement – (Defense) – We fought against patent infringement claims having original demand against our client of \$16,000,000. In jury trial, we invalidated the underlying patent using admissions of inventor during his trial testimony. The Court made factual finding of inequitable conduct and ruled the plaintiff’s patent invalid. After situating counterclaims for fraud and sham litigation counterclaims, the opposing party settled by executing a consent judgment for \$200,000 payable to recoup costs and fees in defending the baseless suit.
- Patent infringement (Plaintiff) – We secured a \$2.5 million judgment for willful patent infringement against more than twenty co-defendants in a case involving patented traits in rice seed.
- Business Tort Claims (Plaintiff) – Represented vendors to national retailer in federal litigation against foreign manufacturers in case involving more than 6 million documents.
- Complex Appeals – Federal Circuit, 8th Circuit

## AFFILIATIONS

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- Arkansas Bar Association, Intellectual Property Division – Past President
- American and Washington County Bar Associations
- Oklahoma and Kansas Bar Associations
- Clinton House Museum, President
- United States Patent and Trademark Office – Registered Patent Attorney