

How Irell & Manella, Winstead Won A \$240M IP Verdict In Texas

By Lynn LaRowe

Law360 (October 23, 2023, 3:44 PM EDT) -- Within the source code for a data storage technology, attorneys at Winstead PC and Irell & Manella LLP said they had a compelling story to tell: Michael Anderson developed a groundbreaking invention and hybrid data cloud company Cloudera ruined his business through its patent infringement.

Convincing a jury of those allegations — and scoring a **\$240 million verdict** for Anderson's company, StreamScale, in Texas federal court this month — meant extensive pretrial preparation by Winstead and then top-notch cross-examination of Cloudera's own witnesses by Irell & Manella lawyers, the attorneys said.

Irell & Manella's Jason Sheasby told Law360 Pulse that it was Anderson's "compelling and authentic story" that drove the case, along with the U.S. system of laws for safeguarding intellectual property.

"Lawyers need to get out of the way of the story," said Sheasby, a partner at the firm. "Mike Anderson was a businessman, Mike Anderson ran a company that had amazing customers like Technicolor, Sony and Hewlett Packard. He had a patented invention and when it was taken by Cloudera it really destroyed his business."

Sheasby added, "This is exactly what the American patent system was designed to protect: small businesses and small inventors."

Counsel for Cloudera did not respond to a request for comment.

StreamScale developed a software solution that breaks data into "pieces" with "accelerated erasure coding," providing the same redundancy as typical configurations using triple replication to ensure there are backup copies if needed, but with half the space requirement, according to Winstead shareholder Jamie McDole.

Triple replication "takes three times the amount of cost, especially when you're talking about millions upon millions of drives of data throughout the world," McDole said. "Given all the costs involved [with data storage] like real estate, equipment, air conditioners to cool those facilities, the maintenance and the labor required, [Anderson's invention is] truly an enormous advancement in the industry."

As McDole put it, "A small American inventor figured out something that big tech companies could not accomplish."

For StreamScale's suit against Cloudera, alleging infringement of patents issued to Anderson, McDole said that "we took the tack early on in the case that we were going to try it to a jury."

"As a result of that, we had forecasted many of the issues in the case and were ahead of the game on Cloudera," McDole said. "Not only as to the facts, but to the law."



Jamie McDole



Jason Sheasby

McDole said his team's commitment to being jury trial-ready ultimately was a factor in StreamScale's success in the courtroom. The Winstead team also included Mike Karson, Phillip Philbin, Dave Higer, Grant Tucker, Matt Vitale, Nikki Becraft, Amanda Johnson and Pam Jones.

The attorneys suspected Cloudera would argue that it did not sell hardware "and therefore could not infringe system claims," so they sought targeted discovery on that issue, McDole said.

The team also expected that Cloudera would bring up a system developed by Intel as prior art, challenging the validity of StreamScale's patents, and "anticipated their argument that they would claim that not a lot of their customers used the infringing technology, even though they sold it, going to the issue of damages" and infringement, McDole said.

Winstead was able to win summary judgment with respect to the prior art claim, but critical issues remained for the jury to decide, McDole said.

After Winstead attorneys completed fact discovery, Sheasby and his fellow Irell & Manella partner Lisa Glasser were brought in with other members of their firm, Rebecca Carson and Stephen Payne, to complete expert discovery and present the case to a jury.

"Winstead had a vision, we had a vision, and the two came together at trial," Sheasby said. "It was hearing that feedback from [the Winstead team] that allowed Lisa and I to put on the best trial we could."

Sheasby said the "diversity of opinion" and different perspectives that came together in the combined team from Winstead and his firm, and the addition before trial of Waco lawyer Max Ciccarelli of the Ciccarelli Law Firm, were important in developing the successful approach to telling Anderson and StreamScale's "unique story" to the jury.

Using experts who are professors accustomed to teaching technology in simple terms, the trial team was able to explain to the jury how the "accelerated erasure coding" Anderson developed was being used in Cloudera's products, McDole said, adding that Cloudera's internal documents and source code material obtained in discovery were key.

McDole and Sheasby said the team was able to use some of Cloudera's own witnesses to show that infringement was occurring and that the company was benefiting from it.

"Cloudera witnesses were forced to concede on cross-examination that Cloudera considered accelerated erasure coding, which is the subject and title of StreamScale's patents, to be an 'incredible innovation' and a 'major feature' of the accused products," McDole said. "Other Cloudera witnesses also conceded that the accused products contained erasure coding functionality."

Sheasby recalled that, "Cloudera called the person who they claimed knew more than anyone else about the accused feature at the company."

"He swore up and down he had never heard of accelerated erasure coding," Sheasby said. "I took out the actual source code for the product and showed where it said 'accelerated.'"

Sheasby gave a second example of how the team's extensive preparation helped them at trial with Cloudera's witnesses.

"Cloudera called as their first witness the product manager, who was their corporate representative, on why they did not infringe," Sheasby said. "Lisa cross-examined him. She got him to admit he had never even read the patents."

Following four days of testimony and then roughly three and a half hours of deliberations, the jury handed down the \$240 million verdict for StreamScale on Oct. 13.

Glasser and Sheasby have been trying cases together for five years. The StreamScale victory was their third case, and third win, this year. Sheasby said that they have learned as a team that it isn't a star lead attorney that sways a jury, but the facts.

Sheasby said, "What won this case is that Michael Anderson invented something important, he created a working product, he ran a successful business, it was destroyed by Cloudera and that came through to the jury."

McDole called the American patent system a "great equalizer" that levels the playing field for "small, innovative businesses like StreamScale and the world's biggest technology companies," allowing inventors like Anderson to compete.

Sheasby noted that "our founders created the patent system when we were a little country, a country of small businesses and individual inventors — think Ben Franklin."

"This verdict shows that the system works," he added.

--Additional reporting by Kelly Lienhard. Editing by Robert Rudinger.