

TRAILBLAZERS

INTELLECTUAL PROPERTY

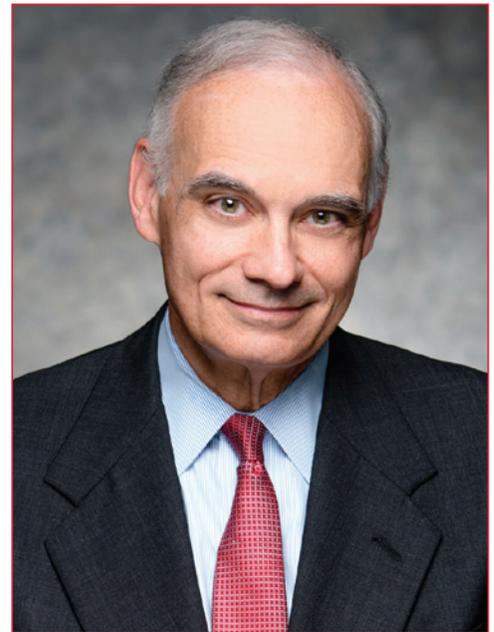
JAMES DABNEY

HUGHES HUBBARD & REED LLP

PIONEER SPIRIT James Dabney began working on competition law cases early in his career. "Today, they would be recognized as IP cases—the refusal to license technology. That got me interested in the general relationship between IP and other areas of law."

TRAILS BLAZED Dabney has represented clients such as KSR and TC Heartland. "I've advocated positions that were not typically advocated by IP lawyers. KSR was decided in 2007 and is now the most cited patent case of all time. That case concerned the authority that federal judges have to review patent issuances by the USPTO. The KSR case greatly opened the range of justifications that can now be urged as grounds for inquiry into what's patentable. The *Already v. Nike* case made it more difficult for those who pick patent fights to walk away when things don't go well for them. In *TC Heartland*, we're asking for review of 25 years of case law allowing cases to be brought in inconvenient locations. This argument could have been made in years past, but IP orthodoxy didn't make it." Dabney has designed a course he teaches at Cornell Law. "It took me a very long time to realize there are instabilities in the law."

FUTURE EXPLORATIONS It has been more than 60 years since the Supreme Court has taken an unadorned case about a patent and whether it's been infringed. "I believe that the existing framework for this will come before the Supreme Court in the next decade. There will be room for correction, because the current law around infringement is very unstable right now."



Hughes
Critical matters. Critical thinking.
Hubbard