



AAA Mediation.org™

**FN-2261626 MN-2261626 LN-2261626,
Esq.**

Salt Lake City, Utah



Current Employer-Title Inductive ADR, LLC - Shareholder

Professional Summary Transforming conflicts into opportunities for growth and resolution is my passion. With over 40 years of experience as an intellectual property attorney and expertise in mediation and arbitration, I specialize in delivering strategic solutions that drive positive outcomes for individuals and organizations.

My commitment to excellence led me to pursue extensive training in dispute resolution. Rigorous courses from prestigious institutions like the Straus Institute for Dispute Resolution at Pepperdine Law School and the American Arbitration Association have equipped me with cutting-edge techniques.

Profession Attorney, Arbitrator, Mediator

Work History Shareholder, Kirton McConkie, 2008-2023; Partner, Snell & Wilmer, 2005-2007; Shareholder, Madson & Metcalf, 1990-2005; Shareholder, Workman, Nydegger, 1984-1990; Senior Attorney, Questar Corporation, 1980-1984; Commercial Litigation and Appeals, 1977-1980; Biochemist, University of Utah and University of Berne, Switzerland, 1972-1975.

Experience Extensive experience in intellectual property law and litigation, including litigation of patent disputes, assisting clients in developing and implementing intellectual property business strategies, providing opinions and advice related to patentability, infringement, and freedom-to-operate issues.

Successfully drafted and prosecuted over 1000 U.S. patents in diverse technologies. Handled extensive foreign patent filings throughout the world.

Worked in a broad range of technology areas including medical devices, chemicals, advanced materials, energy, environmental, pharmaceuticals, biotechnology, mechanical devices, automotive, sporting goods, explosives, and defense.

Handled trademark litigation in the federal courts and before the Trademark Trial and Appeal Board of the United States Patent and Trademark Office. Handled the prosecution of numerous trademark applications before the United States Patent and Trademark Office, as well as related opposition

proceedings.

Experience in copyrights ranging from music to computer software. Handled matters before the United States Copyright Office. Handled music copyright infringement litigations in the federal courts.

Experience in business law areas related to intellectual property, including franchising, technology licensing, employment, and trade secret issues.

Experience in commercial litigation and corporate law.

While at Questar Corporation, worked on energy, environmental, and utility issues. Handled administrative matters before the Federal Energy Regulatory Commission (FERC), United States Bureau of Land Management (BLM), state public utility commissions, oil and gas regulatory agencies, and environmental regulatory agencies.

While at Snow, Christensen & Martineau, commercial and criminal litigation, primarily in the Federal Courts. Appeals to the Federal Courts of Appeal.

Mediator Experience

Has mediated 15 cases and observed/co-mediated approximately 10 other cases. Most of the cases have been commercial and contract disputes, including general contract, merchant disputes, employment, property, and debt/loan matters. Has also handled community mediation involving neighbor disputes and a matter involving management of an estate.

Representative Issues Handled as a Mediator

Issues have included: royalties in a technology license; contract interpretation and damages; real property transactions and ownership rights in real property; commercial sales agreements; and employer-employee disputes.

Mediator Style & Process Preferences

I view the mediation process as an opportunity for the parties to temporarily step out of the role of adversaries in a conflict. They can then step into the role of working for a solution that facilitates future progress for both parties. The parties have the chance to end a destructive dispute and then move on with the positive aspects their lives and businesses.

I view the role of mediator as primarily one of facilitating communication. That being said, however, the mediator can be key to framing the messages which the parties exchange so that there is movement toward a solution, and such that the dispute is not further inflamed. While my philosophy is not one of being purely evaluative, at times it is helpful to provide a reality check to the parties and to raise issues that the parties may have overlooked. It is also useful to work with the parties so that they fully understand their "best alternative to negotiated agreement" (BATNA) and can negotiate from that marker. One of the significant values of these exercises is, obviously, to allow the parties an opportunity to put their interests and position in perspective and to understand the interests and position of the opposing party.

I expect the parties to be well prepared when they come to the mediation. This involves having sufficiently developed their evidence and exhibits to the point where their view of the case can be supported. It involves the parties having made an evaluation of the value of their case, as well as the value of the opponent's case. Preparation certainly involves bringing necessary individuals and decision-makers to the mediation so that a final resolution can be achieved. It also involves making certain that the matter is ripe for mediation. This may involve delaying the mediating to allow for completion of certain discovery and further evidence development.

Education

Lewis & Clark College (JD-1977); University of Utah (BS, Chemistry-1972).
Pepperdine Caruso Law - Mediating the Litigated Case (2022)

Professional Licenses

Admitted to the Bar: Utah (1977); United States Patent and Trademark Office (1984).

Professional Associations

American Intellectual Property Law Assoc.
ADR Registry of Neutrals
Arlington, Virginia

American Inn of Court

David K. Winder IP Inn of Court

Fellow
Chartered Institute of Arbitrators
London, England

Utah Court Annexed ADR Roster
Mediation and Arbitration Rosters
Salt Lake City, Utah

Licensing Executives Society
U.S. and Canada
Wakefield, MA 01880

Recent Publications & Speaking Engagements

Speaking Engagements:

- “Preparing and Piloting Productive Mediation,” Utah State Bar CLE (Nov. 2023).
- "Prosecution of Chemical Patent Applications in the United States," American Chemical Society, National Meeting (2009).

Publications:

- “Amgen v. Sanofi: The Supreme Court Tackles Patent Enablement,” The Patent Lawyer (2023).
- Author, “Resolution of Patent and Technology Disputes by Arbitration and Mediation: A View from the United States,” 74 Arbitration 4 (2008).
- Amicus briefs shape intellectual property law, September 17, 2014.
- Effect of foreign patent proceedings on U.S. patent litigation, September 3, 2014.
- How mediation of patent disputes differs from litigation, August 20, 2014.
- Deconstructing patent claim construction hearings, August 6, 2014.
- Pre-filing investigations in patent cases, July 23, 2014.
- The upsides and downfalls of patent cease and desist letters, July 9, 2014.
- Regulatory: Do agencies have the power to determine the scope of their own jurisdiction? February 2, 2013.
- Regulatory: Patent office secrecy orders for commercial inventions may stifle development, January 23, 2013.
- Getting Things Done Through Regulation, January 10, 2013.
- Regulatory: Making up the rules while the game is being played—FCC v. Fox, January 9, 2013.
- Regulatory: No regulation is sometimes the best option, December 26, 2012.
- Regulatory: Down the rabbit hole to EPA wonderland, December 12, 2012.
- Regulatory: A little good news for the regulated in Sackett v. EPA, November 27, 2012.

For a complete list of publications, visit <http://www.kmclaw.com/newsroom-articles.html>

Mediation Rate

\$500 Per Hour

Languages

English

Citizenship

United States of America

Locale

Salt Lake City, UT

The AAA’s Rules provide the AAA with the authority to administer a mediation including, mediator appointment, general oversight and billing. Accordingly, mediations that proceed without AAA administration are not considered AAA mediations, even when the parties select an mediator who is on the AAA’s Roster.

The information contained in this resume has been supplied solely by the individual mediator and may, or may not, be a complete recitation of their experience. The AAA assumes no responsibility for the content, completeness, accuracy, or reliability of the information contained in a mediator’s resume. If you have any questions about a mediator’s experience or background, you are encouraged to contact your case manager.

Mediators on the AAA Roster are not employees or agents of the AAA.