



2021 TOP INTELLECTUAL PROPERTY LAWYERS

Harper Batts

Challenges to patents before the Patent Trial and Appeal Board are very specific proceedings that demand a very specific skill set, Batts said.

He should know. Every time he has asked the board for an inter partes review of a patent, it has agreed to consider the case. That is, the board has granted institution on every IPR he has ever filed.

"I don't know of anybody else who has that record still," he said. "I don't know if that record will last."

Batts gives much of the credit to his team of lawyers, who all have one or more degrees in fields such as computer science and electrical engineering. They also share other qualities he said are necessary for IPR success.

These include being competitive, meticulous, intellectually agile and able to convey technology in detail during argument before the savvy PTAB judges.

Batts said the overwhelming majority of his work is in bringing IPRs to challenge patents his clients are accused of infringing. For Netflix Inc., he invalidated 86 claims from seven patents held by Realtime Adaptive Streaming LLC, a large nonpracticing entity that had sued many other technology companies.

"We were winning and kicking out patents from a well-known entity where others were not," he said. *Realtime Adaptive Streaming LLC v Netflix Inc.*, IPR2019-00209 (PTO filed Nov. 11, 2018).

Now and then, he defends his clients' patents from attack by competitors. In one case, the PTAB issued a final decision in October upholding a patent belonging to his client, Cochlear Ltd.

That means the competitor is estopped from attacking the patent's validity in an ongoing lawsuit in New Jersey. *Cochlear Ltd. v Oticon Medical AB*, IPR2019-00975 (PTO, filed April 15, 2019).

Batts also won an unusual victory in federal court defending the maker of the videogame World of Tanks. He had invalidated the competitor's patent claims at the PTAB and at the U.S. Court of Appeals for the Federal Circuit.

After that, the trial court judge agreed the case had been exceptional and awarded attorneys' fees.

"It's not very common to get attorneys' fees in patent cases, so that was a notable win for us this last year," Batts said. *Game and Technology Co. Ltd v Wargaming Group Ltd.*, 16-CV06554, (C.D. Cal., filed Aug. 31, 2016).



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**SPECIALTY:
PTAB litigation**

— Don DeBenedictis