



→ Harper Batts

Partner
1540 El Camino Real
Suite 120
Menlo Park, CA 94025

T: +1.650.815.2673
F: +1.650.815.4668
hbatts@sheppardmullin.com

Harper Batts is a partner in the Intellectual Property Practice Group located in the firm's Silicon Valley office. He is also the leader of Sheppard Mullin's Post Grant Proceedings (PTAB) Group.

"... highly expert on the strategic interplay between inter partes reviews and district court litigation."

- IAM Patent 1000 (2023)

Areas of Practice

Harper has almost two decades of experience as an intellectual property litigator and client counselor. Harper has obtained institution on more than 90% of the IPRs he has filed – a number unmatched across the country. Numerous Fortune 500 clients have relied upon his experience to represent them in highly contentious patent disputes in venues across the country. He has been selected multiple times as a Top IP Attorney in California by the *Daily Journal* (including this year), and IAM Patent 1000 noted that Harper "performs adroitly in post-grant proceedings on both the patent owner and petitioner sides." In 2022 and 2023, he obtained institution of numerous petitions for inter partes review, obtained numerous final written decisions finding all claim unpatentable, and obtained an exceptional case finding and an award of attorney's fees in the Central District of California in 2020.

He focuses on immediately determining the most relevant and effective pressure points against an adversary to quickly resolve a dispute with minimal disruption and cost to a client.

Harper is one of the leading attorneys for handling complex PTAB challenges across a variety of technologies. Harper has represented patent challengers and patent owners in more than 80 CBM and IPR proceedings. He has extensive experience in cases before the Patent Trial and Appeal Board as well as related appeals.

Clients continue to rely on Harper's experience litigating in other venues, including the United States Court of Appeal for the Federal Circuit Court of Appeals, the International Trade Commission and district courts known for their patent litigation cases, including the Northern District of California and the Eastern District of Texas.

In addition to his extensive IP litigation experience, Harper has frequently been called upon to conduct negotiations between direct competitors, as well as conducting due diligence regarding the potential acquisition of large patent portfolios.

Harper is experienced in numerous technology areas, including semiconductors, computer software, e-commerce, wireless technology, telecommunications, medical devices and hardware technology.

Honors

Ranked among the top 100 most active attorneys representing petitioners, *Patexia* IPR Intelligence Report, 2021-2022

Recognized among the top 100 best performing attorneys representing petitioners, *Patexia* IPR Intelligence Report, 2021

The World's Leading Patent Professionals, *IAM Patent 1000*, 2020-2023

Top Intellectual Property Lawyers, *Daily Journal*, 2019, 2021, 2022

Experience

- Representing leading EDA tool maker in 2 patent assertion in the Northern District of California.
- Representing leading chip manufacturer in negotiations against Intellectual Ventures.
- Representing leading streaming service provider in multiple IPRs concerning streaming content.
- Representing leading software provider in 3 patent assertion in the Western District of Texas related to communication protocols after successful transfer from the Eastern District of Texas.
- Representing leading streaming service provider in 15+ IPRs and related appeals against Broadcom. The patents claim techniques for managing web services, video compression, and adaptive streaming.
- Representing leading streaming service providers in 6 IPRs involving technologies including partial frame encryption and adaptive streaming. Representation has included successful appeals to the Federal Circuit Court of Appeals, followed by successful remand proceedings.
- Represented leading semiconductor company in 6 district court actions across Delaware and Massachusetts as well as an ITC investigation, with a total of 11 patents being asserted. Settled favorably. Previously represented the same company in an ITC investigation which was voluntarily dropped by the plaintiff before trial.
- Represented leading technology company and graphics card manufacturer in two IPRs. Settled prior to institution of IPRs.
- Represented leading streaming service provider in 2021 in a Central District of California patent dispute and a corresponding IPR. Obtained institution of the IPR, after which Patent Owner surrendered all claims and dismissed the district court action.
- Represented leading semiconductor company in 2 IPRs against IP Value Management subsidiary involving microcontrollers, FPGAs, and other programmable devices, with both IPRs instituted and all challenged claims found invalid in Final Written Decisions.
- Represented leading video game company in Western District of Texas litigation involving erasure code technology. Case settled favorably.
- Represented leading ticket website in Western District of Texas litigation. Plaintiff dismissed action without payment.

- Represented leading software provider in 2021 in Western District of Texas litigation involving 3 asserted patents before obtaining favorable dismissal.
- Represented leading furniture manufacturers in Eastern District of Texas case and 2 related IPRS concerning augmented reality technology. Case settled favorably.
- Represented leading drone manufacturer in patent dispute, including declaratory judgment filing in the District of Delaware. Case settled favorably.
- Represented leading streaming service provider in 7 instituted PTAB challenges relating to compression technology. To date over 85 claims have been found unpatentable across 5 patents.
- Represented leading semiconductor manufacturer in multiple IPR challenges concerning 802.11 and Bluetooth technology that were instituted and all asserted claims found invalid.
- Represented a leading streaming provider of music in 4 IPR proceedings that settled shortly after the filing of the IPRs.
- Represented leading sporting goods company in the Central District of California litigation and obtained dismissal before responding to complaint after sending Rule 11 letter.
- Represented leading TV manufacturer in the Eastern District of Texas in case involving various technologies including 802.11. Case settled favorably.
- In summer of 2018, following institution on all challenged claims for a leading wearable device company, the Patent Owner (a Wi-LAN subsidiary) gave up and disclaimed all of the challenged claims.
- Represented a leading stream service provider of music in litigation in Delaware. Case settled favorably.
- In fall of 2017, after taking over for prior IPR counsel, conducted oral arguments before the Federal Circuit for a leading streaming service provider regarding a Final Written Decision of an IPR proceeding in which the claims were not found unpatentable. The Federal Circuit reversed the decision (without remand), and found all challenged claims obvious.
- Representing leading wearable device company in multiple IPR and Federal Circuit court proceedings.
- In Fall of 2017, received a dismissal of a Central District of California lawsuit without any payment for a leading ride-share provider prior to even formally responding to the Complaint.
- Represented a leading medical device company in multiple IPR proceedings involving a competitor.
- In Fall of 2016, received a dismissal of a Delaware lawsuit without any payment for a leading ride-share provider prior to even formally responding to the Complaint.
- In Fall of 2016, received a Federal Circuit decision for a leading video stream provider affirming a Final Written Decision by the PTAB invalidating claims asserted against his client.
- In Spring of 2016, represented a leading financial services company defending against a claim of patent infringement in the Eastern District of Texas. Prior to having to file an Answer, received a walkaway dismissal with prejudice for the client.
- Represented leading telecommunications provider in patent infringement case related to internet filtering.
- Representing leading streaming video provider in various IP related matters, including litigation defense, multiple IPRs and CBMs, and two Federal Circuit Appeals.
- Representing leading semiconductor company in patent dispute regarding integrated circuit buses.

- Represented a leading medical device company in litigation regarding a patent related to 3D medical imaging. The case was quickly settled.
- Represented industry leader in four separate litigations, more than 15 IPR proceedings, as well as Federal Circuit appeals involving telecommunication software and products. Conducted two jury trials, including arguing motions before the court, and taking of inventor and expert witnesses. After more than 3 years of litigation, 12 out of the 15 patents asserted against client have been invalidated, another 3 unilaterally dropped by the plaintiff.
- After threatened assertion of a large patent portfolio by semiconductor processing competitor, led negotiations which resulted in competitor walking away from original assertions.
- Represented leading router manufacturer in an ITC investigation and corresponding District of Delaware litigation involving Power-over-Ethernet technology. Only weeks before ITC trial, petitioner unilaterally dropped the entire investigation.
- Represented leading software company in patent litigation in the United States District Court for the District of Delaware relating to certain technologies used in enterprise software. The case settled very favorably.
- Represented one of the largest cell phone manufacturers in the world in various patent litigations in the United States District Court for the Eastern District of Texas relating to transmission technology. The case settled favorably.
- Represented a car component manufacturer in patent litigation in the United States District Court for the Western District of North Carolina related to turbocharger technology. The day after winning numerous pre-trial motions and just prior to jury selection, the case settled favorably.
- Represented leading semiconductor and processor company in various litigations concerning 802.11, CDMA2000, Bluetooth and other wireless technologies in the Eastern District of Texas. The case settled favorably on the eve of trial.

Articles

- Divergent Decisions Highlight Uncertainty of IPR Estoppel
Law360, 05.04.2023
- PTAB Director Review Under Vidal: The First 6 Months
Law360, 09.22.2022
- Gaming IP Dispute Is Instructive For Cos. On PTAB Litigation
Law360, 09.09.2021
- At the Post-Iancu USPTO, Will the PTAB Squeeze on Petitioners Continue?
IAM, 03.01.2021
- Have Patent Owners Gotten What They Wished For?
The Recorder, 05.01.2019
- 5 Things To Consider Before Heading To PTAB
Law360, 10.16.2018
- Part 2: How to Assert and Defend Trade Secret Claims After 'Waymo v. Uber'
The Recorder, 02.20.2018
- Lessons Learned From 'Waymo v. Uber' and Other Trade Secret Disputes, Part One: How to Properly Protect Your Trade Secrets

The Recorder, 02.13.2018

- Myth-Busting the Patent Trial and Appeal Board
The Recorder, 05.12.2017
- A Review Of Patent Owners' Early Expert Testimony At PTAB
Law360, 02.22.2017
- How To Make Secondary Considerations Matter (Or Not)
Law360, 06.09.2016
- Myth-Busting the Patent Trial and Appeal Board
Law.com, 04.01.2016
- Open Question: Use of IPR and CBM Institution Decisions in District Court
Intellectual Property & Technology Law Journal, 08.2015
- Recent Shift in § 325(d) Analysis by PTAB May Favor Patent Owners
PTAB Trials Report, 05.2015 **Game Counsel: Gaming and Esports Blog Posts**

- "Hello Again, Worlds: A Failed Gaming IPR Leads to § 101 Success," May 21, 2021
- "ITC Threat for Gaming Companies Grows with PTAB Discretionary Denials," January 15, 2020
- "Clash of Game Companies: Lessons Learned from GREE and Supercell Dispute" September 22, 2020

Law of the Level Blog Posts

- "Hello Again, Worlds: A Failed Gaming IPR Leads to § 101 Success," May 21, 2021
- "ITC Threat for Gaming Companies Grows with PTAB Discretionary Denials," January 15, 2021
- "Clash of Game Companies: Lessons Learned from GREE and Supercell Dispute," September 22, 2020
- "Left Empty Handed: Valve Shut Down on Written Prior Art, Highlighting Importance of System Art," December 6, 2019
- "Addressing Video Game Claims Under the Phillips Standard at the PTAB," August 26, 2019
- "Caution to Game Companies: PTAB Continues to Preclude PTAB Challenges That It Views As Untimely," April 10, 2019
- "Failure to Launch: Not Identifying the Proper Parties Can Prematurely End an Video Game IPR Challenge," February 5, 2019
- "Challenges in Filing Successful IPR Petitions for Video Game Patents," January 3, 2019 **Intellectual Property Law Blog Posts**
- "PTAB Makes Significant Changes to Director Review Process," July 25, 2023
- "How Quickly are Judge Albright Patent Cases Going to Trial?," June 27, 2023
- "Early 2023 Update: Where Are Plaintiffs Filing Patent Cases Now?," February 10, 2023

- "Delaware 101 Pleading Analysis Leaves Parties Guessing and Prosecutors Moving to Adapt," April 15, 2020
- "Left Empty Handed: Valve Shut Down on Written Prior Art, Highlighting Importance of System Art," December 6, 2019
- "Perils of Waiting: PTAB's Precedential Opinion Panel Designates Two More Decisions Rejecting 315(b) Arguments Regarding Time Bars," September 16, 2019
- "Addressing Video Game Claims Under the Phillips Standard at the PTAB," August 29, 2019
- "New PTAB Guide Creates Uncertainty as to Multiple Petition Situations," August 12, 2019
- "PTAB Continues to Preclude PTAB Challenges That It Views As Untimely," April 12, 2019
- "Challenges in Filing Successful IPR Petitions for Video Game Patents," January 4, 2019
- "5 Things To Consider Before Heading To PTAB," October 17, 2018

Media Mentions

The Biggest PTAB Developments In 2023

Law360, 12.18.2023

Fed. Circ. Affirms Netflix's PTAB Win Against Broadcom

Law360, 06.22.2023

Funders and NPEs say asserting patent portfolios can minimise risk at the USPTO's PTAB, where procedure remains a controversial topic

Managing IP, 05.24.2023

Three takeaways from Intel's PTAB win

Managing IP, 05.24.2023

ITC Will Probe Chip Patent Claims Against NXP, Acer

Law360, 11.09.2022

Local Servers Can't Determine Patent Suit Venue, Netflix Says

Law360, 10.06.2021

The Biggest Patent Rulings of 2021: A Midyear Report

Law360, 07.06.2021

Service Flub in Video Game IP Case Leads to Sanctions

Law360, 11.02.2020

Fed. Circ. Sends Wearable Tech IP Back To PTAB In Fitbit Fight

Law360, 07.08.2020

PTAB VR Ruling Shows Shift In Thinking On 'Serial' Petitions

Law360, 04.22.2019

PTAB Taking Note Of Parallel Litigation In Review Decisions

Law360, 10.24.2018

4 Recent PTAB Decisions Attys Need To Know

Law360, 10.22.2018

Apple, Fitbit Get Heart Sensor Patent Slashed At PTAB

Law360, 08.07.2018

Apple, Fitbit Get Health Sensor Patent Invalidated At PTAB

Law360, 06.01.2018

Patent Landscape Readjusts One Year After TC Heartland

Law360, 05.18.2018

Industry reaction to SCOTUS patent venue decision in TC Heartland v. Kraft Food Group

IP Watchdog, 05.20.2016

Speaking Engagements

"Successful IPRs: Best Practice Suggestions from Prominent Filers," ABA-IPL IP West, Newport Beach, California, October 3, 2018

Events

Upheavals Ahead: Preparing your IP Department for Tectonic Shifts

PTAB Strategy Update

Crowne Plaza, Palo Alto, CA, 05.08.2024

MCLE Marathon 2023 with Elimination of Bias Credit

Sheppard Mullin Silicon Valley Office, 01.13.2023

Fighting (Patent) Trolls with Dragons: How to Effectively and Efficiently Defend Against Patent Assertions

Video Game Bar Association Virtual Townhall

12.16.2020

ACC-SFBA Patent Law Committee Meeting Sponsored by Sheppard Mullin LLP

Altered Beast: How Recent Supreme Court Decisions and PTO Rule Changes Under Director Iancu Have Dramatically Changed the Patent Landscape

Sheppard Mullin San Francisco, 03.28.2019

ACC-SFBA Patent Law Committee Meeting Sponsored by Sheppard Mullin LLP

Altered Beast: How Recent Supreme Court Decisions and PTO Rule Changes Under Director Iancu Have Dramatically Changed the Patent Landscape

Palo Alto, 03.27.2019

Memberships

State Bar of California

United States Patent Trial and Appeal Board (PTAB)

United States Patent and Trademark Office

United States Court of Appeals for the Federal Circuit

United States District Court for the Northern District of California

United States District Court for the Eastern District of Texas

Podcasts & Webinars

Nota Bene Episode 168: How Patent Disputes Affect the Semiconductor Industry
12.06.2023

MCLE Marathon 2023 with Elimination of Bias Credit
01.13.2023

Practices

False Advertising, Lanham Act and Unfair Competition

Intellectual Property

Patent Litigation

Post-Grant Proceedings

Trade Secrets

Industries

Emerging Company & Venture Capital

Entertainment, Technology and Advertising

Esports & Games

Life Sciences

Semiconductors

Education

J.D., University of Miami School of Law, 2005, *cum laude*

B.A., Chemistry, Johns Hopkins University, 1999

Admissions

California

United States Patent Trial and Appeal Board (PTAB)

United States Patent and Trademark Office

United States Court of Appeals for the Federal Circuit

United States District Court for the Northern District of California
United States District Court for the Eastern District of Texas