



## → Harper Batts

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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.

### Areas of Practice

Harper has more than a decade and a half of experience as an intellectual property litigator and client counselor. Harper has obtained institution on more than 95% 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*, and IAM Patent 1000 noted that Harper “performs adroitly in post-grant proceedings on both the patent owner and petitioner sides.” In 2021, 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, having obtained institution on almost every IPR he has filed. 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.

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.

A sought-after speaker, Harper has presented and written publications concerning his experience and insights concerning post-grant proceedings.

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

## Honors

The World's Leading Patent Professionals, *IAM Patent 1000*, 2020-2022

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

Recognized as a Northern California Super Lawyer - Rising Star, 2015, 2016

## Experience

- Representing leading streaming service provider in 15+ IPRs against Broadcom. The patents claim techniques for managing web services, video compression, and adaptive streaming.
- 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.
- Representing 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.
- Representing leading video game company in Western District of Texas litigation involving erasure code technology.
- Representing leading ticket website in Western District of Texas litigation.
- Represented leading software provider in 2021 in Western District of Texas litigation involving 3 asserted patents before obtaining favorable dismissal.
- Representing leading streaming service providers in 6 IPRs involving technologies including partial frame encryption and adaptive streaming, with all IPRs instituted.
- 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

- 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

- "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

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

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

## 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

## 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