

MATTHEW L. CUTLER

PRINCIPAL / ST. LOUIS METRO OFFICE

Matt's practice is focused on intellectual property litigation (both in the district courts and at the ITC), *Inter Partes* Review and Post-Grant Review proceedings before the Patent Trial and Appeal Board at the U.S. Patent and Trademark Office. With more than 25 years of litigation experience, Matt has seen what has gone right for holders of intellectual property rights, as well as what can go wrong. His litigation expertise has allowed him to become a trusted advisor and problem solver on IP portfolio management issues. He delivers practical, battle-tested advice to more effectively manage the IP portfolios of companies both large and small.

Matt has *argued and won* claims before the United States District Court for the Eastern District of Missouri and district courts around the country. One of two patent attorneys on the committee to draft the Local Patent Rules for the Eastern District of Missouri, which were adopted in 2011, Matt is frequently retained to serve as local counsel in the district.

PRACTICE AREAS

IP Litigation; Patents; IP Transactions; PTAB Proceedings

INDUSTRIES

Chemistry & Materials Science; Image Processing, Lasers & Optics; Pharmaceutical & Biotechnology; Semiconductor Processing & Devices; Architecture



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KEY MATTERS

- Lead counsel in the *Proxyconn v. Microsoft* case, which marked the first time the Federal Circuit reversed a PTAB Final Written Decision in an IPR
- Lead district court counsel in the *Octane Fitness v. Icon Health & Fitness* case, developing the factual record that ultimately led the Supreme Court to change the standard for the award of fees in a patent case and an ultimate award of fees by the district court for our client
- Secured a favorable settlement on behalf of a client that led to the dismissal of a lawsuit and four co-pending IPRs. The lawsuit involved sixteen patents related to field programmable gate arrays (FPGA) used in high-speed processing of financial market data.
- Jury verdict of "willful" utility patent infringement, "willful" copyright

infringement and an award of attorney fees

- Jury verdict of trade secret misappropriation and an award of attorney fees
- Jury verdict of design patent infringement
- Seven figure settlement for the client-defendant in a utility patent infringement action
- Numerous settlements after Markman hearings, dispositive motions or other case developments that were significant successes for our clients
- Experience in resolving international intellectual property disputes, including in China, Korea, Taiwan, Europe and Japan
- Obtained arbitrator ruling on behalf of client-plaintiff that included seven-figure damages award, above industry average royalty moving forward, and attorney fees
- Convinced the plaintiff in a trademark infringement lawsuit to settle contingent upon payment of client-defendant's attorney fees
- Defense verdict in false advertising case

NEWS/EVENTS

IN THE NEWS

- Four Harness IP Lawyers Named to 2023 Missouri and Kansas Super Lawyers Lists
- Patent Litigator Matt Cutler talks to Law360 about the Decisions that Reshaped Patent Law
- Patent Litigator Matt Cutler Talks to Bloomberg Law about Prior Art Burden for Applicants
- IPR Expert Matt Cutler Discusses Supreme Court SAS Decision, World IP Review, April 25, 2018
- Matt Cutler Discusses IPRs, Patent Owner Estoppel in Arthrex v. Smith & Nephew
- Law360 Talks to Matt Cutler About New PTAB Amendment Guidance

EVENTS

- Matt Cutler to Discuss "Launching a Post-Grant Proceeding" in IPO Webinar
- 54th Annual Conference on Intellectual Property Law in Plano, Texas
- PTAB 2nd Annual Bench and Bar Conference

PUBLICATIONS

ARTICLES

- “Don’t Get Cheesed – Protect Your Video Game’s Intellectual Property” – Harness IP’s Matt Cutler in Licensing Journal
- Matt Cutler Pens Article for Pharmaceutical Executive on Patent Litigation Trends Positively Impacting Pharma Patent Rights
- Harness IP Attorneys Share Strategies to Avoid IP Lawsuits in Business Journal Article
- “10 Years Of KSR: 4 Key Statistical Takeaways,” *Law360*, May 4, 2017
- “Branded Pharma Feels the Pinch from the Inter Partes Review Monster It Helped Create,” *Pharmaceutical Processing*, August 23, 2016
- “5 Things You Should Know About the PTAB’s New Rules Governing Post Grant Administrative Trials,” *IP Watchdog*, April 18, 2016

BLOGS

- Don’t Disclaim-Away the Broader Claims in Your Continuation Patent Application
- “Trademark tactics for safeguarding gaming assets,” The Trademark Lawyer
- Don’t Get Cheesed – Protect Your Video Game’s Intellectual Property
- Intellectual Property in the Metaverse and the Challenges of Regulating a Lawless Frontier
- Rowing Machine Design Patent Infringement Battle Kicks Off in Delaware
- Racing Equipment Competitors Square off in the Eastern District of Missouri

BACKGROUND

Matt knows first-hand what it takes to prevail in an intellectual property dispute. A proven litigator, he is committed to delivering comprehensive advocacy in all areas of intellectual property defense and prosecution. A certified mediator, Matt’s negotiation skills are developed and effective. His capabilities include state and federal claims pertaining to complex patent, trademark and copyright litigation, as well as the misappropriation of trade secrets. Matt is also known for his extensive experience pertaining to freedom-to-operate opinions for both infringement and validity analyses.

Matt’s clients include some of the most innovative businesses of today, and range from start-ups, to emerging companies, to multi-national

corporations with global IP assets. Matt is valued for his objectivity and innate ability to leverage his client's position. Although Matt offers an impressive track record of undeniable results both in and out of court — *he is practical* — and evaluates each matter from both a legal and economic perspective.

AWARDS & DISTINCTIONS

- *Chambers USA: America's Leading Lawyers in Business* for Intellectual Property, Missouri, 2019-2023
- *Best Lawyers*, Litigation – Intellectual Property “Lawyer of the Year” in St. Louis, 2020
- *Best Lawyers*, Patent Law “Lawyer of the Year” in St. Louis, 2019
- *Best Lawyers*, Litigation – Patent “Lawyer of the Year” in St. Louis, 2017
- *Best Lawyers*, Litigation – Patent, 2015-2024
- *Best Lawyers*, Litigation – Intellectual Property, 2013-2024
- *Best Lawyers*, Patent Law, 2012-2024
- *Managing Intellectual Property*, “IP Stars,” 2014-2022
- Intellectual Asset Management (IAM), “Patent 1000,” 2021-2023
- *JD Supra*, Reader's Choice Award, 2017
- *Ingram's Magazine*, “50 Missourians You Should Know,” 2017
- *St. Louis Small Business Monthly*, “Best IP Attorney,” 2021, 2023
- *St. Louis Small Business Monthly*, “100 St. Louisans to Know to Succeed in Business,” 2017
- *Missouri Super Lawyers*, 2013-2021
- *Missouri Super Lawyers*, “Rising Star,” Intellectual Property Litigation, 2010
- *Missouri Lawyers Weekly*, “Up & Coming Lawyer,” 2009
- Notre Dame Club of St. Louis, “Member of the Year,” 2008

MEMBERSHIPS

- Bar Association of Metropolitan St. Louis
- Eastern District of Missouri, Patent Rules Committee
- American Intellectual Property Law Association

CIVIC & CHARITABLE

Matt is the Co-founder and President of the Joshua Chamberlain Society, a charity that supports seriously injured or fallen military veterans and their families. Learn more at www.chamberlainsociety.org.

EDUCATION

J.D., Washington University in St. Louis, 1997

B.S., University of Notre Dame, 1992

BAR & COURT ADMISSIONS

Missouri

U.S. Court of Appeals for the Federal Circuit

U.S. Court of Appeals for the Eighth Circuit

U.S. Patent and Trademark Office

Eastern District of Missouri