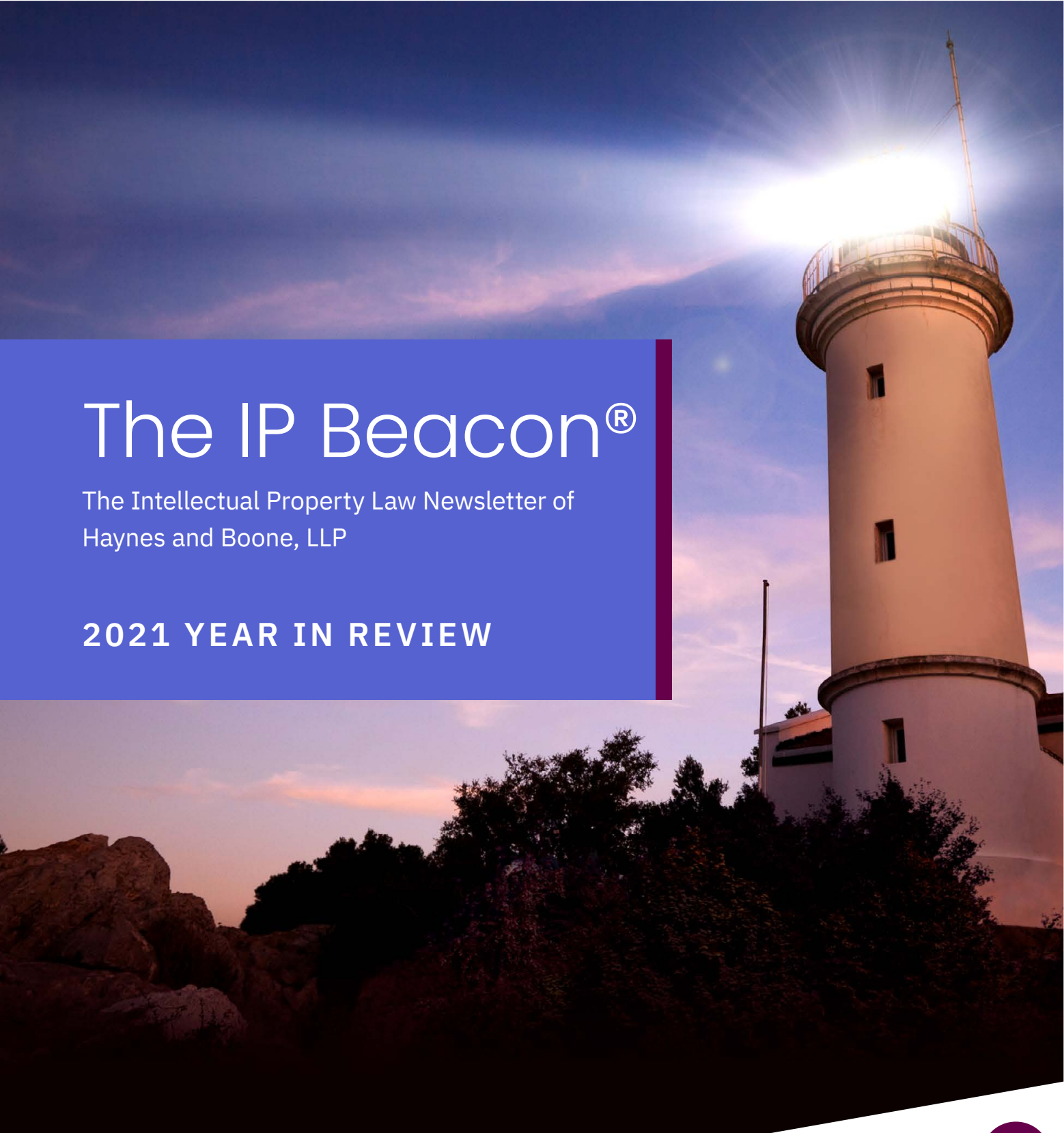


The IP Beacon[®]

The Intellectual Property Law Newsletter of
Haynes and Boone, LLP

2021 YEAR IN REVIEW



Welcome

Welcome! We are pleased to highlight key intellectual property (IP) news from 2021, and some of our representative IP-related client successes and publications over the past year that might be relevant to your business success in 2022.

Our IP department has continued growing and extends across the U.S. with offices in California, Colorado, Illinois, New York, Texas, and Washington, D.C. Our IP team now includes 123 IP lawyers, 12 patent agents, and 2 scientific advisors. We represented clients in 63 *inter partes* review/PTAB proceedings that were filed in 2021, and our patent prosecution team filed more than 2,250 U.S. patent applications and helped issue over 1,600 U.S. patents in 2021 alone. We also helped investigate, negotiate, draft, and close the IP issues in dozens of diligence investigations, financings, M&A transactions, and joint venture/licensing and other contractual arrangements.

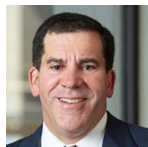
We invite you to read on for a review of important IP related cases, updates on some of our firm's IP litigation efforts and key deals, and a few of the awards our intellectual property team is most proud of from 2021.

Year in Review Cases

COPYRIGHT CASE OF THE CENTURY DECIDED: SUPREME COURT RULES IN GOOGLE'S FAVOR IN \$9 BILLION SOFTWARE DISPUTE



Jason
Bloom



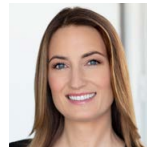
Lee
Johnston



Abbey
Gauger

At long last, and after more than a decade of litigation, the United States Supreme Court has ruled in the multibillion-dollar copyright dispute between Google LLC and Oracle America, Inc. In a matchup that could be described as Goliath vs. Goliath, the technology giants waged war for years over Google's unlicensed use of Oracle's Application Programming Interfaces ("API") in early versions of its Android smartphone platform. In a case involving two jury trials, two Federal Circuit appeals, and two petitions for certiorari to the Supreme Court, both sides had wins and losses along the way, but Google ultimately prevailed before the Supreme Court and was absolved of liability.

VERA SUAREZ IN LAW360: 'FED. CIRC. SIMIO PATENT ELIGIBILITY RULING MAY AFFECT ALICE TEST'



Vera
Suarez

When determining whether patent claims recite patent-eligible subject matter under Title 35 of the U.S. Code, Section 101, courts follow the two-step framework from the U.S. Supreme Court's 2014 *Alice Corp. v. CLS Bank International* decision.

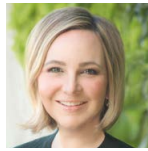
The first step of the Alice test determines whether the claims are "directed to" an abstract idea. If not, then the claims are patent-eligible. If so, then the second step of the Alice test determines whether the claims contain an "inventive concept" sufficient to transform the abstract idea into a patent eligible application.

The detailed description of the claimed invention is considered in the two-step framework, and the U.S. Court of Appeals for the Federal Circuit's recent opinion in *Simio LLC v. FlexSim Software Products Inc.* may change how the detailed description is reviewed when determining whether the claims are "directed to" an abstract idea in the first step of the Alice test.

JASON BLOOM, ANNIE ALLISON AND ABBEY GAUGER IN *LAW360*: ‘TEXAS RULING SHOWS WEIGHT OF STATE IMMUNITY IN IP CLAIMS’



Jason Bloom



Annie Allison



Abbey Gauger

The Texas Supreme Court held that a governmental unit’s copyright infringement does not qualify as a constitutional taking in the matter of *Jim Olive Photography, dba Photolive Inc. v. University of Houston System*.

However, the most remarkable aspect of this June 2021 decision was not the resolution of the takings claim, but rather the fact that the state Supreme Court considered a copyright infringement case at all, when the law is clear that federal courts have exclusive jurisdiction in the area.

JOSEPH MATAL IN *WESTLAW TODAY*: ‘JURY TRIALS ARE NOT AN ADEQUATE SUBSTITUTE FOR PATENT VALIDITY REVIEW AT THE PTAB’



Joseph Matal

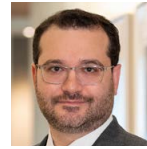
The \$2.2 billion patent infringement verdict in West Texas puts to rest any notion that American industry can simply learn to live with the USPTO’s new policy of applying “discretion” to deny validity review of issued patents.

The patents in *VLSI Technology LLC v. Intel Corp.* should have been reviewed by the technical experts at the Patent Trial and Appeal Board, and if they had been, their claims almost certainly would have been cancelled.

DAVID MCCOMBS, EUGENE GORYUNOV AND JOSEPH MATAL ON PTAB’S POST-ARTHREX FUTURE



Joseph Matal



Eugene Goryunov



David McCombs

With the decision in *United States v. Arthrex* (June 21, 2021), the U.S. Patent and Trademark Office (USPTO) Patent Trial and Appeal Board (PTAB) has made its sixth trip to the U.S. Supreme Court and has survived its second constitutional challenge there — an impressive record for an agency adjudicatory body that is not even a decade old.

The remaining legal challenges to the board’s authority have been rejected by the U.S. Court of Appeals for the Federal Circuit and appear to hold little promise. These challenges range from the implausible (arguments that Congress cannot update procedures for enforcing pre-existing patentability requirements [*Celgene v. Peter* (2019); *Genentech v. Hospira* (2020)]) to the ridiculous (that a company can evade validity review by transferring its patents to an Indian tribe [*Saint Regis Mohawk Tribe v. Mylan Pharms* (2018)]).



Recent Cases

IN RE: SURGISIL, L.L.P.

We successfully argued for a reversal of a design patent claim rejection, which also overturned Patent Office precedent and clarified design patent law, for our client SurgiSil at the U.S. Court of Appeals for the Federal Circuit.

The Federal Circuit ruled an art tool that looks similar to SurgiSil's lip filler alternative shouldn't prevent the company from getting a design patent, despite a PTAB ruling otherwise. A three-judge panel reversed the PTAB's finding that SurgiSil's application for a design patent is anticipated by an art tool called a stump. The precedential opinion holds that a design claim is limited to the article of manufacture identified in the claim, therefore the anticipation rejection could not be based on the art tool stump.

DORMITUS BRANDS V. AT&T MOBILITY LLC

Dormitus Brands claimed ownership of the CINGULAR brand and trademarks, which belong to our client AT&T. We represented AT&T in an opposition it filed within the TTAB, including in securing an important ruling on standing and preparing to proceed to trial, in successfully dismissing a complaint for declaratory judgment that Dormitus Brands filed in retaliation in federal court in Chicago, and then a follow-on suit brought by Dormitus in federal court in Chicago attempting to establish rights and win damages. After a 7-year battle, the parties finally resolved the case.

LINKSMART WIRELESS TECHNOLOGY, LLC V. PANASONIC AVIONICS CORP.

We defended Panasonic Avionics Corporation in a patent infringement suit brought by Linksmart Wireless Technology, LLC. Linksmart accused certain Panasonic Avionics products of infringing one of its patents. The case involved a system for redirecting wireless network traffic based on rule sets that are dynamically modified by a server.

The Haynes Boone team obtained favorable rulings for PAC in claim construction and regarding intervening rights related to the reissue patent that plaintiff asserted. We settled on favorable terms.

BENEBONE V. PET QWERKS ET AL.

We helped Benebone, a leading dog chew toy brand, bring claims in California federal court against competitors for allegedly knocking off its product design and branding. The claims at issue included design patent infringement and trade dress infringement of some of Benebone's best-selling chew toys. Haynes Boone successfully defeated a motion to dismiss and a motion for early claim construction. The parties settled the dispute.

Technology and M&A – Representative 2021 Transactions

- Representing Strides Pharma Science Limited in an approximately \$24 million acquisition announced August 6, 2021. Strides' wholly-owned subsidiaries entered into definitive agreements with subsidiaries of Endo International in Q4 2021 and acquired its multi-dosage manufacturing facility in New York and a basket various Abbreviated New Drug Applications (ANDAs) across multiple therapeutic segments. The cumulative addressable market for the acquired portfolio is \$4.7 billion.
- Represented Nabors Industries, Ltd. in multiple Greentech investments with joint development partners including:
 - an equity investment and joint development agreement with Quaise, Inc.
 - a convertible note investment and joint development agreement with Sage GeoSystems, Inc.
 - a convertible note investment and joint development agreement with GeoX Energy Inc.
- Advised Volumetric Biotechnologies in its sale to 3D Systems (NYSE:DDD) to help advance research in life science technology and 3D printing for regenerative medicine. A Haynes Boone patent procurement team helped Volumetric build out an extensive IP portfolio that was a core asset of the transaction.
- Assisted SSW Advanced Technologies in the acquisition of Schott-Gemtron Corp., a Tennessee-based maker of specialty glass. The transaction involved a large portfolio of patents, trademarks, and long-term licensing agreements.
- Represented Mitel in a carve-out sale of Clearspan, one of its telecom SaaS divisions, to Abry Partners, a private equity purchaser, including the preparation of the Carve-out Asset Purchase Agreement, Transition Services Agreement, Subcontracting Agreement and Non-Competition Agreement.
- Represented Orthofix in intellectual property diligence and negotiation of development and distribution agreements with Neo Medical SA, resulting in a partnership that is co-developing single-use instrumentation for cervical spine procedures and Orthofix's distribution of Neo Medical's disruptive value-based thoracolumbar solutions in the U.S.
- Continued representation of Taiwan Semiconductor Manufacturing Company (TSMC) in the negotiation of various strategic patent portfolio acquisition and licensing agreements.

The acquisition is structured as a \$45 million closing payment, with up to \$355 million of additional opportunities linked to milestone demonstration of human applications through December 31, 2035.

Publications

What Are Standard Essential Patents and Why Do I Need to Know About Them?

Haynes Boone News | May 3, 2021

Raghav Bajaj

When you woke up this morning, you probably unplugged your cell phone from its charger, looked at it, and saw a Wi-Fi icon at the top. Maybe over breakfast, you watched a couple of clips from the news. Just like that, without even thinking about it, you have used multiple technologies covered by standards, and those everyday actions implicated hundreds of standard essential patents, or SEPs.

Federal Circuit Tells Patent Office to Limit Scope of Design Patents, Overturning Patent Office Precedent

Haynes Boone News | October 11, 2021

Vera Suarez and Alan Herda

Federal Circuit tells the Patent Office that the way it has been reviewing design patent applications is wrong, and that a design patent claim must be limited to the article of manufacture identified in the claim. *In re: SurgiSil, L.L.P., et al*, No. 2020-1940, 2021 WL 4515275 (Fed. Cir. Oct. 4, 2021).

The Copyright Small Claims Court: What You Need to Know Before Litigating in the U.S. Copyright Office's New Three-Judge Court for Copyright Claims Under \$30,000

Haynes Boone News | October 25, 2021

Michael Lambert

Changes are coming for copyright law. Federal courts will soon no longer have exclusive jurisdiction over federal copyright claims. Instead, the Copyright Claims Board (CCB), a three-judge panel within the U.S. Copyright Office that will hear “small” copyright claims, will begin operating between late 2021 and June 2022. The copyright small claims court, designed to provide copyright claimants a quicker and less expensive way to enforce their rights, will hear limited types of copyright claims, counterclaims, and defenses. Monetary damages will be capped at \$30,000 per proceeding with statutory damages limited to \$15,000 per work infringed. Importantly, participation in this court is voluntary, and

respondents who prefer to adjudicate in federal court can opt out of the CCB. Unlike federal courts, the CCB will operate online and through other remote means.

Baby, You Can Drive My Car, But Please Don't Touch My Data! Connected Cars and Arising Data Privacy Issues

Haynes Boone News | August 17, 2021

Gavin George and Annie Allison

Today's car market is saturated with connected cars - vehicles that exchange data with networks inside and outside the vehicle. The connected car market was estimated to be worth 52.6 billion dollars in 2016, and it is projected to jump to 219 billion by 2025, signaling that this market continues to grow and flourish.

The Shifting Legal Landscape Surrounding Web Scraping – Recent Developments

Haynes Boone News | October 25, 2021

Lee Johnston

As reported in our [Fall 2019 newsletter](#), the Ninth Circuit's landmark decision in *hiQ v. LinkedIn* provided an important win for web scrapers. In *hiQ*, the Ninth Circuit upheld the trial court's injunction enjoining LinkedIn from using technological measures to prevent hiQ from scraping data from the public profiles of LinkedIn members. To reach this result, the Ninth Circuit found that the Computer Fraud & Abuse Act's prohibition against “unauthorized access” to “protected computers” did not apply to web scraping of data appearing on publicly available web pages. According to the Ninth Circuit, LinkedIn's attempts to “revoke” hiQ's authorization to access LinkedIn's members' public profiles – through cease-and-desist letters and technological anti-scraping means – could not establish CFAA liability, since profiles which were freely available and accessible to the public needed no “authorization” in the first place.

Charlie Jones, Jeffrey Becker, and Abby Ryan in *World Trademark Review*: ‘All Eyes on SCOTUS: Dispelling Confusion on Initial Interest Confusion’

World Trademark Review | September 16, 2021
Charles Jones, Jeffrey Becker, and Abby Ryan

A longstanding circuit split could be resolved if the U.S. Supreme Court accepts certiorari in a case that hinges on the initial interest confusion doctrine. In this guest analysis, Haynes Boone Partners Charlie Jones and Jeffrey Becker and Associate Abby Ryan explain why a Supreme Court ruling could have significant implications for enforcement strategies.

Protecting IP in Autonomous Driving

Haynes Boone News | August 17, 2021
Charlene Liu

Modern autonomous driving technology often entails applications of Artificial Intelligence (AI) to facilitate navigation and safety. For example, autonomous vehicles can often be equipped with multiple sensors around the vehicle, such as LiDAR, radar, cameras, thermometer, accelerometer GPS, Wi-Fi modules, and/or the like, which are configured to capture data reflecting the environment where the vehicle is located. The captured sensor data can then be fed into an AI system that blends the various sensor data to generate a navigation command that autonomously control the movement of the vehicle with little or no human intervention.

Joseph Matal Authors *IP Watchdog* OpEd About 10th Anniversary of AIA

IP Watchdog | September 14, 2021
Joseph Matal

“The last half century’s legislation simply extended to post-issuance review what the American system has recognized about examination since the 1836 Act: that a knowledge of the background technology (and a grounding in patent law) is a prerequisite to making informed decisions about patentability.”

When the America Invents Act (AIA) was before Congress a decade ago, it was heralded as the first comprehensive patent law since the 1952 Act. Ten years’ perspective on the new law, however, shows that its changes to patent policy have been more evolution rather than revolution. The AIA is simply the latest step in the long arc of moving U.S. law toward a more objective and logical patent system—and one that produces more accurate results.

David McCombs, Eugene Goryunov and Dina Blikshteyn Author *Law360* Article About Temp Waiver of IP Protection on Vaccines

Law360 | August 12, 2021
David McCombs, Eugene Goryunov,
and Dina Blikshteyn

On May 5, President Joe Biden’s administration announced its support for waiving intellectual property protections provided by the World Trade Organization’s Trade-Related Aspects of Intellectual Property Rights Agreement for COVID-19 vaccines.

The TRIPS Agreement establishes minimum standards for protecting IP rights among WTO member nations.

David Bell and Randall Brown in *Law360*: ‘Hashing Out IP And Legality Questions on Delta-8 THC’

Law360 | March 12, 2021
David Bell and Randall Brown

You’ve heard of CBD and THC, but what do you know about their cousin — delta-8 tetrahydrocannabinol, or delta-8 THC?

This compound may be on the cusp of taking over the legal hemp market. As is the case with most things cannabis, the legality of delta-8 THC is not straightforward. What makes hemp-derived delta-8 THC particularly interesting is that, like hemp-derived CBD, it might be legal under federal and some state laws, but, unlike CBD, it can produce a high.

2021 Newsletters

The IP Beacon®

October 2021 July 2021 May 2021

Visit our blog —

The IP Beacon®: Patent Law Review

Industries

Haynes Boone is proud to serve clients across a wide array of industries and emerging technologies. Click on any of the industries below to learn about some of the firm's multidisciplinary groups, the type of work we do in these spaces, and to meet the team.



Advertising, Marketing, and Promotional Law

[Meet the Team](#)
[In the News](#)

Fintech, Virtual Currency, and Blockchain

[Meet the Team](#)
[In the News](#)



AI and Deep Learning

[Meet the Team](#)
[In the News](#)

Medical Device and Technology

[Meet the Team](#)
[In the News](#)



Autonomous Transportation

[Meet the Team](#)
[In the News](#)

Precision Medicine and Digital Health

[Meet the Team](#)
[In the News](#)



CBD and Hemp

[Meet the Team](#)
[In the News](#)

Streaming Media

[Meet the Team](#)
[In the News](#)



Chemical

[Meet the Team](#)
[In the News](#)

Vehicle Electrification

[Meet the Team](#)
[In the News](#)



Recognitions

2021 INTELLECTUAL ASSET MANAGEMENT (IAM) PATENT 1000

The publication ranked Haynes and Boone in California, Illinois and Texas. It ranked the following partners as best-in-class patent prosecution, litigation, and transactions practitioners in key jurisdictions:

- Randall Brown
- Tom Chen
- Randall Colson
- Russell Emerson
- Ralph Gabric
- Alan Herda
- Lee Johnston
- David McCombs
- Greg Michelson
- Laura Beth Miller
- David O'Brien
- David O'Dell
- Mark Tidwell
- Jeffrey Wolfson

2021 WORLD TRADEMARK REVIEW (WTR) 1000

Honored as one of the top 11 “National Gold Tier” trademark practices in the country.

- Purvi Patel Albers
- Jeffrey Becker
- David Bell
- Erin Hennessy
- Robert LeBlanc
- William Nash
- Richard Rochford

MANAGING IP 2021 IP STARS DIRECTORY

Ranked Tier 1, as one of the Top Six firms nationwide, for PTAB litigation and Tier 3 in the U.S. for patent prosecution. The firm also ranked as one of only five Highly Recommended firms for patent prosecution in Texas and one of only six Highly Recommended firms in Texas in the patent contentious category.

Ranked among the Top 11 trademark firms in the U.S. — and as one of only four “highly recommended” trademark firms in Texas.

IP STARS:

- Purvi Patel Albers
- Jeffrey Becker
- David Bell
- Randall Brown
- Tom Chen
- Andrew Ehmke
- Erin Hennessy
- Joseph Matal
- David McCombs
- Laura Beth Miller

RISING STARS:

- Scott Jarratt
- Robert LeBlanc
- Jason Whitney

CHAMBERS USA 2021

- Purvi Patel Albers – Intellectual Property: Trademark & Copyright (Texas)
- Jeffrey Becker – Intellectual Property: Trademark & Copyright (Texas)
- David Bell – Intellectual Property: Trademark & Copyright (Texas)
- Randall Colson – Technology: Outsourcing (Texas)
- Russell Emerson – Intellectual Property (Texas)
- David McCombs – Intellectual Property (Texas)
- Laura Beth Miller – Intellectual Property (Illinois)
- Laura Prather – First Amendment Litigation (USA - Nationwide)

PATEXIA INC.’S 2021 CAFC INTELLIGENCE REPORT

Patexia’s CAFC Intelligence Report ranks Haynes Boone as the **7th most active firm representing patent appellees in 2021** and **one of the Top 25 best performing firms overall**.

Seven Haynes Boone lawyers were ranked among the nation’s Top 100 CAFC lawyers in various “most active” and “best performing” categories.

- Andrew Ehmke
- Russell Emerson
- Theo Foster
- Andrew Lowes
- Joseph Matal
- Debbie McComas
- David McCombs

Recognitions

| PATEXIA INC.'S IPR INTELLIGENCE REPORT

Haynes Boone ranked in the following categories:

- 6th among Top 100 most active law firms representing petitions, with 235 petitioner cases.
- 11th among Top 100 most active firms overall representing petitioners or patent owners, with 269 cases.
- 59th among Top 100 most active firms representing patent owners, with 34 patent owner cases.
- 32nd among Top 100 best performing firms overall representing petitioners or patent owners, with a score of 80%.
- 36th among Top 100 best performing firms representing petitioners, with a score of 77%.
- 72nd among Top 100 best performing firms representing patent owners, with a score of 57%.

Top 100 most active attorneys representing petitioners:

- David McCombs ranked 4th, with 136 petitioner cases.
- Eugene Goryunov ranked 13th, with 97 petitioner cases.
- Jonathan Bowser ranked 38th, with 66 petitioner cases.
- Andrew Ehmke ranked 56th, with 56 petitioner cases.
- Gregory Huh ranked 58th, with 55 petitioner cases.
- Raghav Bajaj ranked 99th, with 37 petitioner cases.

Top 100 most active attorneys overall representing petitioners or patent owners:

- Eugene Goryunov ranked 15th, with 152 cases.
- David McCombs ranked 16th, with 145 cases.
- Jonathan Bowser ranked 85th, with 74 cases.
- Theo Foster ranked 93rd, with 72 cases.

Top 100 most active attorneys overall representing patent owners:

- Eugene Goryunov ranked 56th, with 55 cases.

Top 100 best performing attorneys representing petitioners:

- David O'Dell ranked 69th, with a performance score of 58%.

Top 100 best performing attorneys (representing petitioners or patent owners):

- David McCombs ranked 59th, with a score of 65%.
- Theo Foster ranked 61st, with a score of 64%.
- David O'Dell ranked 67th, with a score of 60%.
- Jonathan Bowser ranked 94th, with a score of 52%.

| 2022 BEST LAWYERS “ONES TO WATCH”

- | | | |
|--|---|--|
| ▪ Tiffany Cooke
Litigation - Intellectual Property | ▪ Alexander Lutzky
Intellectual Property Law | ▪ Stephanie Sivinski
Litigation - Intellectual Property |
| ▪ Tiffany Ferris
Intellectual Property Law | ▪ Mike McArthur
Intellectual Property Law
Litigation - Intellectual Property | ▪ Ellie Sowanick
Intellectual Property Law
Patent Law |
| ▪ Adam Fowles
Intellectual Property Law | ▪ Angela Oliver
Intellectual Property Law
Patent Law | ▪ Michael Tobin
Intellectual Property Law |
| ▪ Charlene Liu
Intellectual Property Law | | ▪ Jason Whitney
Litigation - Intellectual Property |

Recognitions

2022 THE BEST LAWYERS IN AMERICA

- **Ralph Gabric**
Litigation - Patent
- **Eugene Goryunov**
Patent Law
- **Laura Beth Miller**
Litigation - Patent
- **Purvi Patel Albers**
Trademark Law
- **Jeffrey Becker**
Litigation - Intellectual Property
Technology Law
Trademark Law
“Lawyer of the Year” - Technology Law - Dallas/Fort Worth)
- **Jason Bloom**
Litigation - Intellectual Property
- **Randall Brown**
Patent Law
- **Randall Colson**
Privacy and Data Security Law
Technology Law
- **Russell Emerson**
Litigation - Intellectual Property
Litigation - Patent
- **Gavin George**
Technology Law
- **David Harper**
Litigation - Intellectual Property
- **David McCombs**
Litigation - Intellectual Property
Litigation - Patent
Patent Law
Technology Law
- **Dustin Johnson**
Patent Law
- **Thomas Kelton**
Litigation - Intellectual Property
Trademark Law
- **David O’Dell**
Litigation - Intellectual Property
- **Gregory Webb**
Patent Law
- **Lee Johnston**
Litigation - Intellectual Property
Litigation - Patent
- **Thomas Williams**
Commercial Litigation
Litigation - First Amendment
Litigation - Intellectual Property
- **Jade Laye**
Litigation - Intellectual Property
- **Erin Hennessy**
Trademark Law
- **Gary Edwards**
Litigation - Intellectual Property
- **William Nash**
Litigation – Patent

2022 U.S. NEWS & WORLD REPORT AND BEST LAWYERS “BEST LAW FIRMS” DIRECTORY

National Tier 1

Practice Areas

- Litigation – Intellectual Property
- Litigation – Patent
- Trademarks

National Tier 3

Practice Areas:

- Patent Law
- Technology Law

Metropolitan Tier 1

Practice Areas:

- Litigation – Intellectual Property: Dallas/Fort Worth, Houston
- Litigation – Patent: Chicago, Dallas/Fort Worth
- Patent Law: Chicago, Dallas/Fort Worth
- Privacy and Data Security Law: Dallas/Fort Worth
- Technology Law: Dallas/Fort Worth
- Trademark Law: Dallas/Fort Worth

Metropolitan Tier 2

Practice Areas:

- Litigation – Intellectual Property: Colorado, San Jose
- Litigation – Patent: San Antonio
- Trademark Law: New York

Metropolitan Tier 3

Practice Areas:

- Technology: Houston

New IP Partners

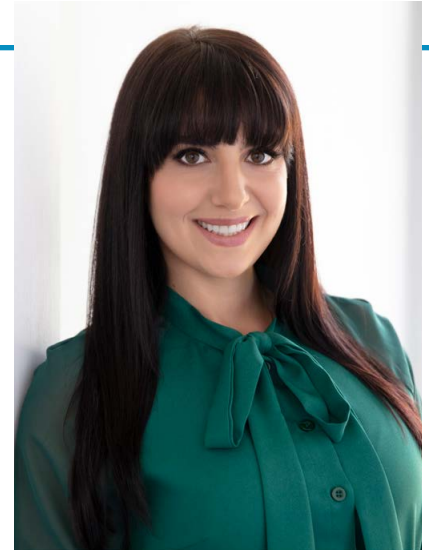
Tiffany Ferris

Dallas | Trademarks and Advertising

Tiffany Ferris assists clients in all aspects of brand management and promotion. From analyzing potential risks associated with advertising claims to evaluating the availability of a potential trademark, Tiffany works to help her clients build, maintain, and promote their brands. She supports clients through all stages of their brand's lifecycle, including selecting, clearing, and procuring trademarks around the world, obtaining copyright registrations, and enforcing her clients' copyright and trademark rights in the United States and abroad.

Tiffany counsels clients in the design and development of product packaging and labeling, including on compliance with FDA and FTC regulations and the intellectual property implications of label design. She also reviews national advertising materials in all forms of media, including print, web, television, radio, professional materials, and social media channels.

Not just a counselor, Tiffany represents her clients in proceedings before the National Advertising Division (NAD), as well as before the U.S. Trademark Trial and Appeal Board. She is skilled in managing complex international trademark opposition and cancellation proceedings.



Tiffany has established herself to be an innovator and leader in the firm and her community. In addition to being an accomplished trademark lawyer, she has been instrumental to the growth of our Advertising Law practice. Her deep understanding of her clients' big picture needs has made her an invaluable and sought-after advisor. Tiffany is a rising star and will undoubtedly continue to be at the forefront of her field. Her promotion to partner is further proof of the firm's confidence in her ability to serve as a leader in Haynes Boone's future and culture.

New IP Partners

Alan Wang

Dallas - North | Patent Prosecution

Alan Wang is a dedicated patent attorney, an experienced engineer, and an innovator. Alan focuses on patent-related practices, including patent non-infringement and invalidity analysis, patent licensing evaluation and negotiation, patent preparation and prosecution, and patent post-grant review. Furthermore, he actively represents clients in patent dispute matters and has defended clients against numerous patent assertions.

Alan has an extensive background in electrical and computer engineering. He has prepared and prosecuted patents in a variety of technologies and industries such as semiconductor fabrication, integrated circuit (IC) design, IC packaging, IC testing, power management, computing and storage devices, handheld devices, and medical devices.



Throughout his time at Haynes Boone, Alan has consistently proven himself to be a dedicated patent attorney and trusted advisor to his clients. Alan's promotion to partnership is a testament to his depth of talent, commitment to client service, and dedication to his colleagues and the firm.

IP Quiz

Can the USPTO ban someone from filing trademark applications?

See answer on page 13

Can the USPTO ban someone from filing trademark applications?

YES! A recent precedential order by the USPTO Director showed that, in an attempt to crack down on fraudulent foreign filings, it is willing to not only heavily sanction applicants who disobey the Office's rules but also ban entities and individuals from filing future applications.

This order stems out of the USPTO's attempts to counteract the flood of fraudulent trademark filings made by foreign applicants with the Office over the past several years. Seemingly in part due to this flood of fraudulent filings, the Office implemented a rule in 2019 that required non-US domiciled applicants to be represented by a U.S. licensed attorney when filing an application. However, rather than complying with this rule, many foreign nationals have found ways around it, either by contracting with a U.S. licensed attorney that will effectively 'rubber stamp' their fraudulent filings; or, forging a U.S. attorney's credentials and filing the applications themselves. As a result, many fraudulent foreign filings are still on the trademark register.

As a part of guarding the register, the USPTO Director recently made an example of applicant Shenzhen Huanyee Intellectual Property Co. Ltd., a Chinese company that provided US trademark application services to foreign clients, and its executive director Yusha Zhang for their fraudulent actions before the USPTO.

In his Final Order for Sanctions *re: Yusha Zang and Shenzhen Huaynee Intellectual Property Co. Ltd.*, the Director cited both Huanyee and Zhang for participating in the unauthorized practice of law by filing trademark applications on behalf of non-US domiciled foreign nationals even though Huanyee did not have a U.S. licensed attorney on staff; including false domicile information on numerous application forms to circumvent the requirement that foreign nationals must be represented by a U.S. attorney; and forging its clients' signatures in over 15,000 trademark applications and other submissions with the USPTO, including verifications and declarations.

As sanctions for the "egregious nature of the conduct at issue", and to deter third parties from similar conduct, the Director terminated all trademark proceedings that involved submissions by a Huanyee employee, officer, or agent, or Zhang. The Director also banned both Huanyee and Zhang from any future correspondence or submissions with the USPTO.

After this Final Order issued, a USPTO spokesperson commented that these harsh sanctions "[are] a strong example of our comprehensive efforts to fight trademark fraud by protecting the integrity of the U.S. trademark register."¹ These sanctions certainly do show a force of strength by the USPTO, and serve as a cautionary tale for those seeking to clog the system with fraudulent filings.

¹ Tiffany Hu, USPTO Sanctions Chinese Co. Over 'Infected' 15K TM Apps, *Law360*, Dec. 13, 2021, <https://www.law360.com/articles/1447851/uspto-sanctions-chinese-co-over-infected-15k-tm-apps>.

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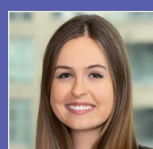
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