



Ben Haber

Counsel

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Ben Haber is an intellectual property litigator who focuses on representing technology clients in complex patent and technology-intense matters. He has appeared in US District and Appellate courts, as well as in administrative fora including the PTAB and the US International Trade Commission. Ben has a degree in physics and his experience includes representing clients in matters involving a wide-array of technologies including mobile communications, video processing, aerospace systems, and medical devices. In addition to extensive experience in district court litigation, Ben has appeared in dozens of PTAB proceedings on behalf of both petitioners and patent owners.

Before joining O'Melveny, Ben was Senior Policy Advisor to the Undersecretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (USPTO). In that role, Ben was responsible for reshaping substantive patent policy for the United States, including patent eligible subject matter pursuant to 35 U.S.C. § 101, trial proceedings before the PTAB, and patent examination and search policy. Ben led the teams drafting and implementing public policy guidelines, rules, and procedures including, for example, the 2019 Revised Subject Matter Eligibility Guidance, the PTAB's rules changing the claim construction standards to be used in trial proceedings, and the PTAB's new Motion to Amend pilot program.

Prior to law school, Ben was an accomplished engineer, working in the fields of Aerospace Engineering, Optical Engineering, and Systems Engineering at NASA's Jet Propulsion Laboratory (JPL), and at Northrop Grumman Corporation. Ben also served as an

Admissions

Bar Admissions

California

Court Admissions

US Supreme Court

US Court of Appeals, Federal Circuit

US District Court, Eastern District of Texas, Central District of California

Department of Veteran Affairs

Registered to Practice

US Patent & Trademark Office

Education

Loyola Law School, J.D.: *magna cum laude*; Order of the Coif; Sayre MacNiel Scholar; Chief Technology Editor, *Loyola Law Review*

University of Colorado Boulder, B.A., Physics

intelligence officer at the Defense Intelligence Agency in Washington, DC.

Ben is active in the legal and IP community. He is an Adjunct Professor, teaching Patent Law at his alma mater, Loyola Law School. Ben is also an active member of the PTAB Bar Association, and sits on the 7-member Amicus Committee. Ben has also spoken and written extensively on the America Invents Act (“AIA”). He is a member of American MENSA and the American Physical Society.

Experience

- Represented DVR developer and manufacturer in patent infringement case related to cable television and mobile device hardware and software; argued claim construction in E.D. Tex.; case settled favorably shortly after the claim construction hearing
- Defended developer and manufacturer of silicon tuner chips for smart TVs and set-top boxes in a series of IPR disputes; argued oral hearing before the PTAB and secured a final written decision rejecting each of the petitioner's validity challenges
- Defended a publicly traded medical device company against a competitor in an IPR petition; PTAB denied IPR institution as to all challenged claims on claim construction grounds
- Represented manufacturer of aircraft passenger cabin interior products in a Federal Circuit appeal that resulted in a unanimous precedential decision affirming a lower court finding of noninfringement
- Invalidated 3 patents related to vacuum toilet systems in multiple IPR proceedings representing petitioner in the aerospace industry
- Secured denial of institution of two IPR petitions on behalf of glass company; preserved claims subsequently found willfully infringed, resulting in a jury verdict of more than \$50,000,000 in favor of client
- Secured triple summary judgments of non-infringement for aerospace company in case related to vacuum toilet systems (C.D. Cal.)
- Represented company that develops and markets networking products as patent owner in two concurrent IPR proceedings; both IPRs terminated by favorable settlement agreement
- Represented DVR developer and manufacturer as plaintiff in two separate patent infringement actions against competitors; favorably settled on the eve of trial (E.D. Tex.)
- Represented medical device company in bench trial on double patenting, relating to vascular closure devices; case settled on favorable terms shortly thereafter
- Defended DVR developer and manufacturer in a Section 337 ITC patent infringement investigation; case settled on the eve of trial with a walk-away agreement
- Defended smart-phone manufacturer in a Section 337 ITC investigation relating to mobile web access; plaintiff dropped the case days before trial

Professional Activities

Adjunct Professor

- Loyola Law School, Los Angeles (2016-17, and Present)

Member

- American MENSA

- American Physical Society

Author

- “Patent office issues needed *inter partes* review guidance,” *Daily Journal* (December 14, 2017)
- “Supreme Court case could undo years of patent litigation,” *Daily Journal* (November 30, 2017)
- “Possible High Court Outcomes for PTAB Partial Reviews,” *Law 360* (November 29, 2017)
- “Unpack *Inter Partes* Review's First Review,” *Daily Journal*, co-author (April 2015)
- “A Bit of a Muddle on Abstract-Idea Patents,” *The National Law Journal*, co-author (September 2013)
- “*Inter Partes* Review is the New Normal: What has been lost? What has been Gained?” *American Intellectual Property Law Association (AIPLA) Quarterly Journal*, (January 2013)
- “Challenging Validity of Issued Patents Before the PTO: *Inter Partes* Reexam Now or *Inter Partes* Review Later?” *Journal of the Patent & Trademark Office Society*, (Summer 2012)
- “Post-Issuance Proceedings in the America Invents Act,” *Journal of the Patent and Trademark Office Society*, (February 2012)
- Contributor, “It’s Finally Time to Modernize our Patent System,” *Daily Journal* (July 2011)
- NASA Tech Briefs – GOATS Orbitology (Spring 2010)
- NASA Tech Briefs – GOATS Image Projections (Spring 2010)

Honors & Awards

- Jet Propulsion Laboratory Team Award (March, 2008; August, 2009)
- NASA Technology Award (Spring 2010; Summer 2010)
- Northrop Grumman Corporation, Chairman’s Award for Excellence (April 2006)
- Northrop Grumman Corporation, Peer Award Program Recipient