

# MATTHEW L. CUTLER

PRINCIPAL / ST. LOUIS METRO OFFICE



Matt's practice is focused on intellectual property litigation, *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 20 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 on IP portfolio management issues who 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

## 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



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- 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
- 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

### PRESENTATIONS

- “New Legal Developments in AIA Trials: Panel,” PTAB 2nd Annual Bench and Bar Conference, Alexandria, VA, June 2016

### EVENTS

- 53rd Annual Conference on Intellectual Property Law, November 2016
- Matt Cutler to Discuss “Launching a Post-Grant Proceeding” in IPO Webinar

### IN THE NEWS

- 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

- Matt Cutler Quoted in Patent Investor Article on Aqua Products Call
- Matt Cutler Discusses Future of Patent Trial and Appeal Board with Law360
- Patent Litigator Matt Cutler Discusses the PTAB's Fifth Anniversary with Law360

## PUBLICATIONS

### ARTICLES

- Harness Dickey 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
- "Fed. Circ. Could Weaken Patent Rights In Exhaustion Case," *Law360*, April 21, 2015
- "A Fair and Efficient Litigation Alternative," *ACC Docket*, November 1, 2014

### BLOGS

- USPTO Considers Replacing Broadest Reasonable Interpretation Standard in IPRs & PGRs
- Partial Institution Decisions Go, as IPR Proceedings in General are Here to Stay
- IPRs Are Here to Stay, But Partial Institution Decisions Are a Thing of the Past
- Disclaimer in IPR Raises Patent Owner Estoppel
- Wi-Fi One: PTAB's Time-Bar Determinations are Reviewable; Achates Overruled
- PTAB Provides Guidance on Motions to Amend

## 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.

Matt's website, [www.IPR-PGR.com](http://www.IPR-PGR.com), is dedicated exclusively to issues surrounding Patent Office litigation.

### **AWARDS & DISTINCTIONS**

- *Best Lawyers*, Patent Law "Lawyer of the Year" in St. Louis, 2019
- *Best Lawyers*, Litigation - Patent, 2015-2019
- *Best Lawyers*, Litigation - Intellectual Property, 2013-2019
- *Best Lawyers*, Patent Law, 2012-2019
- *Managing Intellectual Property*, "IP Stars," 2014-2018
- *Best Lawyers*, Litigation - Patent "Lawyer of the Year" in St. Louis, 2017
- *Ingram's Magazine*, "50 Missourians You Should Know," 2017
- *St. Louis Small Business Monthly*, "100 St. Louisans to Know to Succeed in Business," 2017
- *JD Supra*, Reader's Choice Award, 2017
- *Missouri Super Lawyers*, 2013-2018
- *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

### **CIVIC & CHARITABLE**

Matt is a co-founder and current Board Member of the Joshua Chamberlain Society, a charity which supports seriously injured or fallen military veterans and their families. Learn more at [www.chamberlainsociety.org](http://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