



Klarquist

**POST-GRANT
PROCEEDINGS**

**WITH OVER
10,000 PETITIONS
FILED SINCE 2012,
EVERY PATENT
LITIGATION
STRATEGY MUST
INCLUDE A PLAN
FOR WINNING
AT THE USPTO.**

**LET KLARQUIST
BE THAT PLAN.**

OUR SUCCESS IS BUILT ON THE SKILL OF OUR TEAMS, AS WELL AS OUR APPROACH TO IPRs.

WE LEAVE NOTHING TO CHANCE.

Too often, IPR outcomes turn on a small point that a party simply overlooked or didn't fully run to ground. The PTAB has a busy docket, so we present its judges with clear and thorough arguments that can be easily adopted into decisions ruling in our clients' favor.

WE WORK WELL WITH LITIGATION COUNSEL, EVEN WHEN THAT'S NOT US.

For many clients, we're the go-to IPR team, even when someone else is handling a related litigation matter. That means we're used to successfully collaborating with attorneys at many different (and larger) firms around the country, to make sure that the IPR strategy dovetails with the litigation strategy and achieves an overall best outcome for the client.

EXPECTATIONS ARE UNDERSTOOD, AND MET.

We keep our clients well-informed of case status and strategy, ensuring that our approach is always in line with clients' expectations and goals. And we make sure our strategy provides the success that is needed.

Our Post-Grant attorneys make sure that post-grant decisions fit into the big picture strategy, whether representing petitioner or the patent owner.

FOR PETITIONERS:

When challenging a patent we, of course, always aim to render each claim unpatentable. But we also get the larger picture, and work carefully to make sure that our actions in IPR dovetail with litigation positions, e.g., forcing patent owner into a narrow claim construction that strengthens noninfringement. Ultimately, the “success” of a post-grant challenge depends on client goals, whether they are to facilitate early settlement, narrow the scope of claims, create intervening rights, or eliminate the claims completely. Often, an IPR may help avoid the high expense of litigation if the district court stays the case pending Patent Office review.

FOR PATENT OWNERS:

At all stages of the process, we consider the broader implications of every action we take. For patent owners who are often involved in concurrent litigation proceedings, success must be measured not just by the survival of the patent, but also the survival of the infringement theory in the litigation. The best IPR defense leads to denial of institution, but when that’s not possible we fight for final written decisions that strengthen your patent and restrict the challenger from presenting similar arguments for invalidity in the future.

100+

**POST-GRANT PROCEEDINGS
HANDLED BY KLARQUIST**

55+

**REGISTERED USPTO
PRACTITIONERS WITH
TECHNICAL DEGREES
IN NEARLY EVERY FIELD
OF TECHNOLOGY**

**BECAUSE WE
PLAY ON
BOTH SIDES,
WE UNDERSTAND
HOW TO WIN
AT THE USPTO.**

Our high institution-stage success rate for patent owners flows from an ability to analyze and pick apart a petition. That same critical eye also proves invaluable in representing petitioners, as we scrutinize each of our own petitions to eliminate any potential points of attack for the other side.

WHY CHOOSE KLARQUIST?

REASON

01

FROM THE START:

We've been doing this from the beginning. IPRs first became available on September 16, 2012. Klarquist filed its first IPR two days later, for Microsoft.

BEFORE THE AIA:

Since long before the America Invents Act, Klarquist has had an active post-grant practice, filing and defending reexamination proceedings with the USPTO. Our lengthy history with *ex parte* and *inter partes* reexamination proceedings helps to inform our current post-grant

REASON

02

YEARS OF EXPERIENCE:

Patent law is what we do. Our Post-Grant team members have an average of more than fifteen years practicing patent law.

practice. Not only do we have a deep understanding of the history of these proceedings and the options that are available today, we actively monitor all changes to the current proceedings to provide our clients with the most up-to-date and effective USPTO representation available.

REASON

03

TRUSTED TO WIN:

Our clients trust us to handle their most important cases. That's why the clients we worked with from the beginning still use us today.



PATENT DEFENSES KLARQUIST'S PATENT LAW TREATISE:

Patent law is complicated. To help our clients navigate its complexities, we created Klarquist's legal treatise "Patent Defenses" in 2004. In 2018, we made this tool available online for the public. Find your answers at patentdefenses.com.

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**OUR EXPERIENCE
COUNTS.
OUR KNOWLEDGE
DELIVERS.**

ANDREW MASON
Partner
Member of Post Grant Team

CASE SNAPSHOTS

Here are three highlights from the Klarquist post-grant files:

DEFENDING CLIENTS' KEY ASSETS: AGAMATRIX, INC. V. DEXCOM, INC.

01

Klarquist won four IPRs for patent owner Dexcom, against competitor Agamatrix, successfully defending two Dexcom patents from a total of four IPR challenges against dozens of claims.

These two patents had been asserted by client Dexcom in ITC and District Court litigation. Klarquist's IPR strategy resulted in denial of all four Agamatrix petitions, paving the way for assertion of the two patents with all

claims intact. The patented technology relates to glucose monitoring devices, which have changed the lives of people with diabetes.

WINNING KEY COMPETITOR CASES: MENTOR GRAPHICS CORP. V. SYNOPSYS, INC.

02

Klarquist successfully represented longtime client and petitioner Mentor Graphics in this IPR that resulted in the cancellation of all challenged claims in a patent owned by its largest competitor, Synopsys.

Mentor had been accused of infringing those claims, but Klarquist's promptly-filed IPR petition led to a stay of the litigation, giving Mentor a strategic advantage. Ultimately, the PTAB found each claim unpatentable as obvious.

Klarquist also handled the appeal at the the Federal Circuit, which affirmed Mentor's victory before the PTAB.

AGAINST THE ODDS: ICON HEALTH & FITNESS, INC. V. NAUTILUS, INC.

03

Klarquist scored a key victory for patent owner Nautilus, Inc., fending off four IPR petitions filed by rival exercise equipment company Icon Fitness. The denied petitions attempted to challenge four Nautilus

elliptical machine patents. Nautilus had asserted those patents against Icon in district court litigation also handled by Klarquist, alleging infringement by the NordicTrack FreeStride Trainers.

Klarquist's success in the IPRs—and its further success fending off 8 later-filed ex parte reexams—"gold-plated" the patents for continued assertion in the competitor-competitor litigation.

IN GOOD COMPANY

Data analytics group Patexia ranked Klarquist in the top 3 “Best Performing” IPR law firms nationwide between 2012-2017. Klarquist was recognized for our expertise in representing both petitioners and patent owners in inter partes review disputes.

Our Post-Grant Group specializes in the following:

- Inter Partes Review (IPR)
- Covered Business Method (CBM)
- Post Grant Review (PGR)
- Ex parte reexamination
- Supplemental reexamination
- Reissue applications
- Interference proceedings
- Derivation proceedings

We are prepared to defend your patents and challenge the patents of others on your behalf. No matter what side of a post-grant review or proceeding you're on, our attorneys take your short and long term goals into account, and carefully craft individualized post-grant strategies to help you achieve them.

**KLARQUIST:
HOME TO ONE
OF THE BEST
POST-GRANT
PRACTICES
IN THE U.S.**

KLARQUIST SPARKMAN, LLP
Intellectual Property Law

Oregon

Nevada

California

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