



## James L. Day

Partner

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Jim Day is the head of our Patent Office Litigation practice group. Jim has more than 20 years of experience in state and federal courts litigating intellectual property and complex commercial disputes for internet and other high technology companies.

Jim's practice is focused on patent disputes, both in Federal courts and before the Patent Trial and Appeal Board (PTAB), and trade secret misappropriation lawsuits. A significant, and growing, part of his work involves *inter partes* patent review proceedings before the PTAB, in which the validity of a patent is reviewed in a more streamlined and predictable action as compared to conventional patent litigation. With limited discovery, oral argument to a panel of patent judges, and strict time limits on decisions, his experience with these reviews saves his clients time, money, and uncertainty.

Jim also has extensive experience litigating patents in numerous Federal District courts around the United States, dealing with technologies as diverse as cable networks, disk drives, video networking, electronic locks, lightning-protected gas tubing, and pharmaceuticals – just to name a few. In addition to purely patent-related matters, he has also represented and advised clients with respect to litigation of licensing disputes, trade secret issues, and other complex business disputes.

In addition to his credentials as an attorney, Jim is an electrical engineer with industry experience in software, which gives him a great deal of credibility with judges, juries, and his clients' internal technical experts. He combines the technical aspect of his engineering expertise with the storytelling at the heart of being a litigator.

His approach to the disputes he handles is based on a concerted effort to think a step ahead of the other side – rather than reflexively fighting every point, every decision incorporates analysis of whether and how it will help his client's case, how opposing counsel will react, and the ultimate objective of obtaining a successful result. He delivers this with an emphasis on being responsive, keeping his clients informed, and striving to ensure that he meets every client's expectations for service, expertise, and ultimately, results.

### Distinctions

- *National Law Journal*, Intellectual Property Trailblazers (2023)
- *Daily Journal*, Top IP Lawyers (2020, 2023)
- *Managing Intellectual Property*, IP Stars - Patent Litigation (2018-2022)

### Memberships and Affiliations

- American Bar Association's Intellectual Property and Litigation Sections
- American Intellectual Property Law Association (AIPLA)
- Member, Advisory Board, All Stars Project of the San Francisco Bay Area, non-profit organization dedicated to providing developmental opportunities for inner-city youth
- Member, Board of Directors, The Redwoods – A Community of Seniors

### Services

- Consumer Products + Manufacturing
- Intellectual Property
- Patent Litigation
- Patent Office Litigation
- Technology
- Trade Secrets Litigation

### Education

- University of California, Davis (B.S., 1991)
  - Electrical Engineering and Computer Science

### Bar Admissions

- California
- United States Patent and Trademark Office

### Court Admissions

- All California Courts
- Federal Circuit Court of Appeals
- U.S. District Court (E.D. Texas)

## Experience

### **Networking and Cybersecurity Solutions Company Patent Infringement Lawsuit**

Represented a multinational networking and cybersecurity solutions company in a 6-patent infringement lawsuit in the Western District of Texas and in the related IPR proceedings. The lawsuit accused a broad range of data center-related technology, including routers, switches, firewall devices, and the company's operating system of infringement. The matter resolved with a settlement favorable for our client.

### **UC Regents v. QD Vision**

Represented the Regents of the University of California against QD Vision for infringement of patents relating to nanocrystal technology in the United States District Court for the Northern District of California.

### **Security People, Inc. v. Ojmar US, LLC**

Defended Spanish touch-pad lock manufacturer Ojmar SA and its US subsidiary in a series of patent infringement actions filed by its direct competitor in the Northern District of California. We succeeded in getting two cases dismissed outright and defeated the third by successfully challenging the asserted patent in an IPR proceeding in the Patent Office—a decision summarily affirmed by the Federal Circuit Court of Appeals. We then filed a *Walker Process/Handgards* antitrust case on behalf of Ojmar against its dominant competitor. The case settled shortly before trial in June 2018.

### **Comcast v. Promptu Systems**

In response to patent litigation against Comcast, we have filed six IPR petitions challenging the three asserted patents. All six IPRs have been instituted for review on all grounds by the Patent Office.

### **Hall Data v. Dropbox**

Defended Dropbox in patent proceedings related to database synchronization technologies initially filed in the Eastern District of Texas. After successfully obtaining transfer of the action from the Eastern District of Texas to the Northern District of California, we obtained a dismissal with prejudice on behalf of our client following a court-ordered settlement conference.

### **SharkNinja Operating LLC v. Flexible Technologies, Inc.**

We are representing Flexible Technologies in its district court litigation accusing SharkNinja of patent infringement and other intellectual property claims. SharkNinja filed an IPR, and our PTAB team successfully defended our client convincing the PTAB not to institute the requested *inter partes* review.

### **Albert Jones v. Google Inc.**

Represented Google in a multi-defendant patent infringement action in the Northern District of California involving smart phone, smart watch and headphone technologies. Following a claim construction hearing, the court ruled in favor of defendants.

### **Goodson v. Titeflex Corp.**

In response to patent litigation against Titeflex, we defended the district court litigation and successfully obtained a stay based on two IPR petitions. We prevailed on all claims in both IPRs, and the PTAB's decision cancelling all of the challenged claims was summarily affirmed by the Federal Circuit.

## Publications

August 7, 2023

**What Patent Bills Would Mean for Infringement Litigation**

*Law360*

July 20, 2023

**Takeaways From the Proposed PREVAIL Act**

June 8, 2022

**Importance of Monetizing Intellectual Property Assets of a Portfolio Company**

*Upside*

July 13, 2020

**Artificial Intelligence Can't Patent Inventions: So What?**

*IP Watchdog*

March 27, 2020

**Impacts of Recent PTAB Precedential Opinions Addressing Its Discretion to Reject Petitions for Review of Issued Patents**

7/24/2018

**Supreme Court Upholds Constitutionality of Inter Partes Review of Issued Patents**

4/27/2018

**Supreme Court Tells the Patent Office That IPR Proceedings Are "All-or-Nothing" Affairs**

4/25/2018

**Supreme Court Upholds Constitutionality of Inter Partes Review of Issued Patents**

6/21/2016

**Supreme Court Upholds the PTAB's Status Quo in Cuozzo**

6/17/2016

**Supreme Court Lowers the Bar for Willfulness and Provides Major Win to Patent Holders**

5/5/2016

**IP and Employment Implications of the Defend Trade Secrets Act to be Discussed at May 24-25 Roundtable Programs**

6/22/2015

**Williamson Decision Will Encourage Patent Defendants to Challenge Software Claims**

1/22/2015

**Teva Decision Will Be Felt in Future Patent Claim Construction Hearings**

## Outside the Office

With a wonderful wife and three teenage children, Jim is the quintessential family man. His daughters are cheerleaders and his son plays baseball and basketball. Jim takes great joy in watching them perform and play. He spends his spare time doing what they do. If he's not working, he's either with them, or working with his nonprofit passion, the All-Stars Project, an after-school program for inner-city kids.

