

DERRICK W. TODDY

PARTNER

503.473.0827 | derrick.toddy@klarquist.com



OVERVIEW

Since joining Klarquist in 2006, Derrick has focused his practice on all aspects of intellectual property disputes, from pre-litigation and “alternatives to litigation” such as PTO reexaminations and other post-grant proceedings, through discovery, motion practice and summary judgment, to preparation for trial, as well as related settlement and licensing work. Derrick has particular experience litigating patents involving computer software, computer hardware, video game technology and e-commerce applications. He has represented technology clients such as Microsoft, SAP, eBay, Adobe, LinkedIn, Netflix, Twitter, Hewlett-Packard, Nokia, and Amazon.com, as well as retail clients such as Office Depot, Staples, J.C. Penney, Burlington Coat Factory, Dillard’s and Costco. He has handled patent, trademark and trade secret disputes nationwide, including in California, Delaware, Florida, Massachusetts, Nevada, Puerto Rico, Tennessee, Texas and Washington.

Derrick also has experience in advising clients regarding crafting settlement agreements and intellectual property licensing issues, and has prepared a number of opinions regarding both non-infringement and invalidity. Additionally, he has extensive experience working on various post-grant proceedings, and has played an integral role in successfully appealing or defending appeals to the Patent Trial and Appeal Board. Derrick’s work on these reexaminations and appeals often resulted in cancellation of patent claims asserted in litigation for which Klarquist’s clients had obtained a stay pending the outcome of ex parte or inter partes reviews, in many cases avoiding entirely or greatly reducing the cost of having to litigate these claims in district court.

Derrick’s practice emphasizes computer- and mechanical-related fields, and in particular the field of e-commerce.

Derrick joined Klarquist as a lateral associate in 2006, and became partner in 2019.

EDUCATION

Coursework in Computer Science, Oregon State University, 2015

J.D., James Kent Scholar, Harlan Fiske Stone Scholar, Columbia University, 2004

B.S., Philosophy and Literature, Engineering Sequence in Information Systems Engineering, Dean’s List, United States Military Academy (West Point), 1995

ADMISSIONS

Oregon, 2007

California, 2004

U.S. Patent and Trademark Office, 2016 (Reg. No. 74,591)

U.S. Court of Appeals for the Federal Circuit

U.S. Court of Appeals for the Ninth Circuit

U.S. District Court for the Northern and Central District of California

U.S. District Court for the District of Oregon

U.S. District Court for the Eastern District of Texas

Klarquist

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PROFESSIONAL EXPERIENCE

- ▶ Morgan Miller Blair
Walnut Creek, California
Associate, 2005 – 2006
- ▶ Quinn Emanuel Urquhart Oliver & Hedges
San Francisco, California
Associate, 2004 – 2005
- ▶ U.S. District Court for the Eastern District of New York
Brooklyn, New York
Judicial Extern to the Honorable Jack Weinstein, 2003

PRESENTATIONS & PUBLICATIONS

- ▶ “Navigating Your Business Through the Rising Tide of Patent False Marking Suits”, Portland (OR) Business Journal, September 2010
- ▶ “False Marking Suits: Rising Tide or Blip on the Radar?”, Oregon State Bar Intellectual Property Section, August 2010

REPRESENTATIVE CASES

Over the past decade, Derrick has been involved in all aspects of a large number of patent and trademark cases, including the following representative litigation cases (represented parties underlined), as well as many cases in PTO and/or PTAB proceedings:

- ▶ *ADC v. Microsoft Corporation* (W.D. Wash.): Patent infringement litigation and related PTO reexaminations involving online distribution of videos and software.
- ▶ *Anascape v. Microsoft Corporation* (E.D. Tex.): 12-patent litigation and related PTO reexaminations involving various technical aspects of Xbox® game controllers.
- ▶ *Big Baboon v. Hewlett-Packard* (C.D. Cal.): Multi-defendant patent litigation case and related PTO reexaminations involving database systems for end-to-end B2B commerce.
- ▶ *Canatelo v. Avigilon* (P.R.): Patent infringement suit related to video surveillance technology.
- ▶ *Meynard Designs v. Earth Products, Inc.* (D. Mass.): Trademark infringement suit related to use of the mark “earth” on clothing.
- ▶ *Hawk Technology v. Avigilon, Costco, Burlington Coat Factory, NBC Universal et al.* (S.D. Fla., M.D. Fla.): Series of patent cases relating to video surveillance technology.

PRACTICE AREAS

Post-Grant USPTO Proceedings
Intellectual Property Counseling
Litigation
Patents
Trademarks

TECHNOLOGY AREAS

Software & Internet Technology
Mechanical

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- ▶ *Interval Licensing v. eBay, Netflix, Office Depot, Staples et al.* (W.D. Wash.): Patent infringement litigation and related PTO reexaminations involving recommendation functionality on web commerce sites.
 - ▶ *Microsoft Corporation v. WebXchange* (D. Del., N.D. Cal.): Declaratory judgment actions and related reexaminations related to patents on facilitating online network transactions.
 - ▶ *Optimize v. Dillard's, Drugstore.com, J.C. Penney, Staples et al.* (E.D. Tex.): Patent infringement litigation related to recommendation technology on web commerce sites.
 - ▶ *Reiffin v. Microsoft Corporation* (N.D. Cal.): Patent infringement litigation and Federal Circuit appeal concerning multithreading operating system technology.
 - ▶ *RMail Limited v. Amazon.com, PayPal* (E.D. Tex.): Multi-defendant patent infringement suit and related PTO reexaminations related to online transmission of secure messages.
 - ▶ *SAP v. Wellogix*, (S.D. Tex.): Patent infringement litigation and related PTO reexaminations involving project management software.
 - ▶ *Taylor Brands v. Columbia River Knife and Tool* (E.D. Ten.): Patent infringement suit and Federal Circuit appeal related to assisted opening knives.
 - ▶ *TQP v. Adobe, British Airways, Costco, Intuit, LinkedIn, Travelocity.com, Twitter, Yelp, and Zones* (E.D. Tex.): Series of patent infringement cases involving encryption patent that Plaintiff asserted against the ubiquitous use of RC4 with SSL/TLS with various secure websites.
 - ▶ *VStream v. Nokia et al.* (E.D. Tex.): Patent infringement suit related to compression and decompression of images on "smart" devices.
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