

# Committed to IP Excellence Today and Tomorrow

► **John Hayden, principal at Fish & Richardson, talks about the firm's prowess in the patent prosecution and counseling space, how COVID-19 has affected business, and what he expects to see going in to next year.**

**CCBJ: Leading the high-profile patent practice at the largest intellectual property law firm in the country is a big job. Tell us about your role and your priorities for the new year.**

**John Hayden:** I lead our IP Group, which includes the patent, trademark and copyright, and regulatory and government affairs practices. It is a team of more than 200 attorneys and technology specialists, and hundreds of additional team members who directly support our practice. I'm tremendously proud of how the entire team transitioned seamlessly from working together in our many offices to working remotely while maintaining excellent client service and producing outstanding work product. I'm also proud that the firm was able to make the transition without furloughs, layoffs or compensation reductions. We've actually managed to grow the team this year by more than 20 attorneys and technology specialists (80 percent of whom are diverse), and we've also added comparable numbers of paralegals and docketing professionals.

My priority going into the new year will be to continue to focus on the safety and well-being of our team and to ensure that we have outstanding talent in place to support existing and new clients. That effort will involve continuing to strive to maintain the fabric of the team while working remotely, as it looks like the effects of the pandemic will continue for many of us well into 2021. At the same time, we also need to prepare the team to be ready for face-to-face interactions once that becomes an option (including identifying the clients, markets and sectors that will most benefit from such interactions). In the meantime, we are working to find

new ways to interact with current and potential clients while face-to-face meetings remain a limited option. To ensure that our team has the support they need, we are continuously improving our support infrastructure, as well as making some major revisions to our tools. And, of course, I remain committed to growing our international practice, working with our Shenzhen and Munich offices.

**Fish is known for its long-term client relationships on both the litigation and patent side. What is the secret to the patent group's ability to retain clients over the long haul?**

We strive to understand our clients' technology and business on a very fundamental level. We're able to do so because of the uniqueness of our team – not only do our attorneys have deep technical expertise, but the size of our team also means that we have that deep expertise across an incredibly broad range of technologies. That's something you don't find at other firms. Clients stick with us because we understand their long-range plans for their intellectual property and are able to adapt our approach to meet their needs at any time.

**How have clients' needs changed, and how are you responding to those changes?**

It's not clear to me that their needs have changed. At a high level, clients who come to our patent group are looking to develop a patent portfolio that supports their business needs, to develop strategies for making that patent portfolio as robust and defensible as it needs to be, and to identify the optimal courses for navigating the patent portfolios of their competitors. This is as true today as it was when I started with Fish as an associate in 1992.

What has changed is how we address those needs. For example, when *inter partes* review and related post-grant proceedings came onto the scene, we assembled an industry-

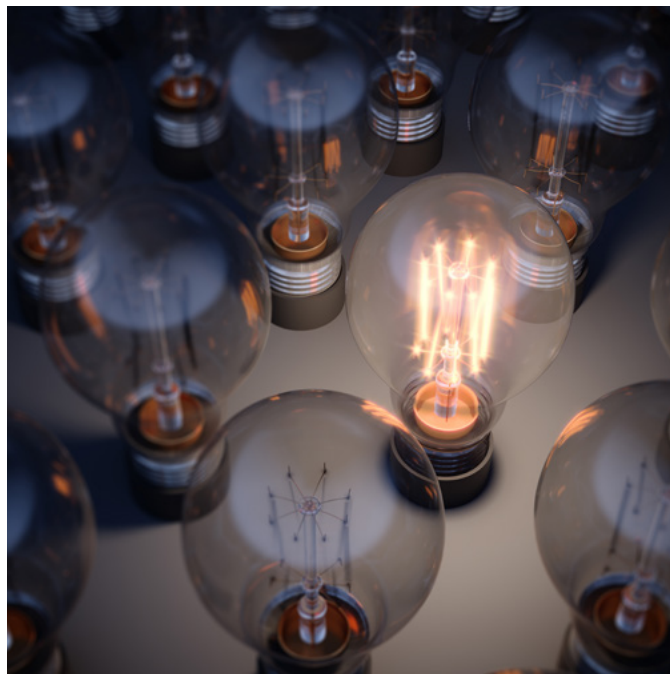
---

leading post-grant practice that offers an outstanding solution for protecting clients' patents that are being challenged as well as for challenging competitor patents that should not have been granted.

We've also addressed our clients' demands for high-quality, high-value legal services through increased reliance on our technology specialist program, paralegals, support systems and technology. Our technology specialist program – which focuses on recruiting scientists and engineers – especially helps us expand our technical breadth and depth without limiting ourselves to the much smaller pool of people with appropriate technical backgrounds who have also gone to law school. And access to that larger pool of accomplished individuals has allowed us to be much more intentional about enhancing the diversity of our team, which is a value embraced by both the firm and our clients. It also allows us to grow our attorney ranks – many of our associates and principals started at the firm as technology specialists and attended law school under the firm's tuition reimbursement program.

**One of your personal passions has been developing the next generation of patent prosecutors and counselors at Fish. What are you doing, and why is it so critical?**

It's important to me that Fish maintain its position as the industry leader for handling the most complex IP issues for cutting-edge companies, and the best way to do that is to invest in the next generation of attorneys who can carry that torch. We provide our junior attorneys and technology specialists with extensive training and give them plenty of opportunities to practice their craft. For example, our innovative Patent Lab is an intensive two-and-a-half-day training program where new team members practice claim drafting, patent application drafting, inventor interviews and response drafting. It is entirely interactive, with hands-on exercises led by Fish's senior



principals, who offer plenty of detailed feedback. We also consider the role that our senior attorneys play in mentoring and training others as a significant factor in their evaluations for advancement and compensation.

**Fish's patent work for clients outside the U.S. is one of the firm's fastest-growing segments of its practice. Can you tell us about this work and its strategic importance to the firm?**

Much of the growth in our patent practice in recent years has been the result of significant growth in work originating outside of the U.S. This work has supplemented our robust practice for domestic clients, which is also growing, but at a more modest pace. We are seeing an increasing number of international clients that are interested in developing strong, high-quality U.S. portfolios – which is compatible with our approach – as opposed to getting a large volume

---

## We strive to understand our clients' technology and business on a very fundamental level.

of patents with less concern about quality and value. That emerging shift in strategy has allowed us to play to our strengths quite well with international clients. We also find that many clients are benefiting from the seamless interaction of our U.S. and Munich offices by using us as a resource to build their portfolios in both the U.S. and Europe.

### **Fish's patent practice has been an innovator in developing and using proprietary technology to more effectively and efficiently manage your patent docket. Explain the technology and how it helps Fish serve clients at the highest levels.**

As a technology law firm, we understand the power of technology and how to use it effectively to improve our processes. Our patent practice has been paperless for nearly a decade, which has streamlined the practice immensely. We have developed several proprietary tools that have been helpful as well. For example, our Automated Practice Systems tool gives our team access to all of their files and correspondence anywhere – an invaluable asset since our offices have been closed due to COVID-19. We also created a proprietary tool called Power Docket that lets individual team members manage their dockets and, more importantly, provides an efficient and effective communication tool for keeping the team apprised of the status of docket items in real time. And we provide client portals that let clients access information about their matters in real time. These tools help us collaborate and work together more efficiently, and clients appreciate that.

### **What's on the horizon that you are planning for now? What keeps you up at night?**

In the short term, we're looking forward to being able to interact with our clients and teams in person again. The COVID-19 crisis has forced a lot of changes very quickly, and I think we're going to be learning lessons from this experience for a long time. In the longer term, I'm staying focused on our international practice – expanding our presence in Munich to better serve our clients in Europe and figuring out additional ways to leverage our presence in Shenzhen, including the addition of more U.S. practitioners.

The biggest thing that keeps me up at night is ensuring that our team is sized appropriately for our workload. As our work has grown, we've moved cautiously to expand the team to appropriately support the work, while recognizing that there is significant hysteresis in the system (i.e., while it is straightforward to add people as work grows, we don't want to be in a position of needing to actively shrink the team if work slows down). I've been very proud that, during my tenure leading the group, we've been able to handle ebbs and flows without losing team members due to lack of work, and my intention is that this will continue. ■



**John Hayden** is a principal in the Washington, D.C., office of Fish & Richardson P.C., where he serves as practice group leader of the firm's IP Group. He is also an elected member of Fish's Management Committee. Reach him at [hayden@fr.com](mailto:hayden@fr.com).