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John E. Whitaker

Member

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Professional Overview

John Whitaker is a litigator who counsels clients on the protection and enforcement of intellectual property rights, including patents, copyrights, trademarks, and trade secrets. John has served as trial counsel in several cases involving various technologies and forms of intellectual property rights. He routinely represents technology clients in the software, medical device, and telecommunications industries, and he also helps artists and authors to protect their original works. John has represented clients in federal courts around the country and at the U.S. Patent & Trademark Office, assisting them in enforcing and defending their intellectual property rights.

In addition to his litigation efforts, John also maintains an active patent and trademark procurement docket, which helps him stay abreast of the latest developments in patent and trademark procedure. That unique combination of litigation and procurement skills distinguishes John from most other intellectual property litigators.

In addition to his private practice, John served as a Judge Advocate in the U.S. Army Reserve for nine years, providing legal services to military personnel at various military facilities around the world, including Seattle area-based Joint Base Lewis McChord. Before becoming an attorney, John was a software engineer working on the national missile defense effort. Specifically, John was involved in strategic defense initiative projects such as ground-based radar, ground-based surveillance and tracking, and anti-satellite programs.

John regularly presents on IP topics to clients and in-house legal teams, and at local bar associations. He is named to the list of *The Best Lawyers in America*.

Education



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- The Judge Advocate General's Legal Center and School, U.S. Army, 2010
- J.D., *magna cum laude*, Cumberland School of Law – Samford University, 1996
- B.S.E.E., The University of Alabama in Huntsville, 1990

Professional Experience

- Christensen O'Connor Johnson Kindness^{PLLC}
Seattle, WA, 1999 – 2000 and 2018 – present
- Lane Powell PC
Seattle, WA, 2016 - 2018
- U.S. Army Reserve at McChord AFB
Joint Base Lewis McChord, WA, 2009 - 2019
- Whitaker Law Group
Seattle, WA, 2005 – 2016
- Lee & Hayes PLLC
Seattle, WA, 2003 – 2005
- Merchant & Gould P.C.
Seattle, WA, 2001 – 2003
- Jones & Askew LLP
Atlanta, GA, Summer 1995 and 1997 – 1999

Technical Experience

- System Engineer
Teledyne Brown Engineering, 1990 – 1993
- Engineering Technician
P/D/R Engineers, 1986 - 1990

Bar & Court Admissions

- Bar Admission: Washington
- Appellate Courts: United States Supreme Court, Federal Circuit, Ninth Circuit
- District Courts: E.D. Tex., E.D. Wash., E.D. Wis., N.D. Ala., S.D. Tex., W.D. Wash., W.D. Wis.



- United States Patent and Trademark Office

Professional Affiliations

- American Intellectual Property Law Association
- Federal Bar Association of the Western District of Washington
Co-Chair, Intellectual Property Committee
- Federal Circuit Bar Association
- Intellectual Property Owners Association

Representative Experience

United States Supreme Court

- *Systems, Inc. v. Nordock, Inc.*
U.S. Supreme Court
Represented Systems, Inc. in successful Petition for Writ of Certiorari on question of scope of damages available under 35 USC § 289.*

Federal District Court

- *MacNeil Automotive Products Limited d/b/a WeatherTech et al v. Yita, LLC et al*
U.S. District Court for the Western District of Washington
Representing WeatherTech in a patent infringement matter relating to protective floor trays for automotive vehicles and their method of manufacture.
- *wedi Corp. v. Hydroblok Grand International Ltd. et al*
U.S. District Court for the Western District of Washington
Representing defendant Hydroblok Grand International Ltd. against a complaint of false advertising and unfair business practices under federal and state law.
- *MercAsia USA, Ltd. v. Jianqing "Johnny" Zhu and 3BTech, Inc.*
U.S. District Court for the Northern District of Indiana
Representing MercAsia USA, Ltd. in enforcing patent rights and to obtain preliminary injunction related to consumer products.
- *Shinn Fu Company of America, Inc. et al. v. Alltrade Tools LLC*
U.S. District Court for the Central District of California
Represented plaintiffs Shinn Fu Company of America, Inc. and Shinn Fu Corporation to enforce patent rights and to obtain declaratory judgments concerning defendant's intellectual property.



- *Northwestern University v. King County*
U.S. District Court for the Western District of Washington
Represented defendant against allegations of unfair and deceptive trade practices and trademark infringement under federal, state, and common law.
- *Data Management Association International v. Enterprise Warehousing Solutions, Inc.*
U.S. District Court for the Northern District of Illinois
Represented plaintiff in matter alleging trademark infringement and unfair business competition.
- *Bombardier Inc. v. Mitsubishi Aircraft Corporation et al.*
U.S. District Court for the Western District of Washington
Represented plaintiff Bombardier, Inc. in a complaint alleging among other claims, trade secret misappropriation under federal and state law.
- *New Flyer Industries Canada ULC, and New Flyer of America Inc. v. Rugby Aviation LLC d/b/a San Juan Airlines*
U.S. District Court for the Western District of Washington
Served as local counsel representing plaintiff New Flyer Industries Canada ULC and New Flyer of America Inc. in a trademark infringement case.
- *wedi Corp. v. Wright et al.*
U.S. District Court for the Western District of Washington
Represented defendant Hydro-Blok USA LLC, et al. against complaint of various causes of action, including unjust enrichment based on misappropriation of trade secrets.
- *Hydro-Blok USA LLC, et al. v. wedi Corp.*
U.S. District Court for the Western District of Washington
Represented Hydro-Blok USA LLC, et al. in patent infringement matter related to prefabricated shower systems.
- *wedi Corp. v. Seattle Glass Block, Inc.*
U.S. District Court for the Western District of Washington
Represented defendant Seattle Glass Block, Inc. against a complaint for various causes of action, including breach of contract, breach of fiduciary duty, fraud, and misappropriation of trade secrets.
- *The Tire Hanger Corporation v. Shinn Fu Company of America, Inc., et al*
U.S. District Court for the Central District of California
Represented defendants Shinn Fu Company of America, Inc. and Shinn Fu Corporation against complaint for allegations of patent infringement.
- *Systems, Inc. v. Nordock, Inc.*
U.S. District Court for Eastern District of Wisconsin
Represented Systems, Inc. in successful defense of patent infringement claims brought by Nordock, Inc.*

United States Patent and Trademark Office:



- *Yita LLC et al. v. MacNeil IP LLC* (IPR2023-00172)
Representing patent owner MacNeil IP LLC in an *inter partes* review proceeding of US Patent No. 8,899,655 related to vehicle floor trays.
- *Yita LLC et al. v. MacNeil IP LLC* (IPR2023-00173)
Representing patent owner MacNeil IP LLC in an *inter partes* review proceeding of US Patent No. 9,138,917 related to vehicle floor trays.
- *DreamWorks v. Felix & Fido* (91285990-OPP)
Representing pet-care startup in dispute over use of Felix & Fido trademark.
- *3BTech, Inc. v. Jingle Master International Ltd.* (IPR2018-00663)
Represented patent owner Jingle Master International Ltd. in an *inter partes* review proceeding for a certain claim of US Patent No. 7,882,986 related to liquid dispensing devices.

(*indicates represented while at another firm)

Presentations & Publications

Presentations

- "Trying Patent Cases – Tips and Tricks," Seattle Chapter of the IP Inn of Court; panelist (Seattle, WA, April 2024).
- "IP Timely Topics," Washington State Bar Association, Intellectual Property Section; panelist (Seattle, WA, November 2023).
- "The World According to Section 112," Washington State Patent Law Association (Seattle, WA, June 2020).
- "IP Enforcement Strategies," Washington State Bar Association, Intellectual Property Section (Seattle, WA, September 2019).
- "Patent Issues on Open Source Software and Standards Organizations," Washington State Patent Law Association, panelist (Seattle, WA, January 2019).
- "Patent Practitioner Review: Ethics, Pro Bono and Office Practice," Washington State Patent Law Association, panelist (Redmond, WA, January 2017).

Publications

- "Inter Partes Review Strategy May Change Based on Recent *SAS Inst. Inc. v. Iancu*," Whitaker, J.E. [May 2018].