

## These Firms Are Pulling In The Most PTAB Work

By Jasmin Jackson

*Law360 (February 15, 2023, 7:55 PM EST)* -- Intellectual property boutique Fish & Richardson PC continued to pick up the most work at the Patent Trial and Appeal Board over the last three years, with the firm attributing its success to its ability to draw on the patent expertise it has built across forums and to craft legal teams that are tailored to each client.

Fish & Richardson topped the list of the most active firms at the PTAB from 2020 to 2022, handling a total of 484 trials that were largely on behalf of petitioners, according to a new report by Lex Machina.

Just as Fish & Richardson led the pack last year, IP boutiques Finnegan Henderson Farabow Garrett & Dunner LLP and Sterne Kessler Goldstein & Fox PLLC held onto their second and third spots on the list, respectively, with Finnegan taking part in 324 trials between 2020 and 2022 and Sterne Kessler handling 216 during that time frame.

BigLaw firm Haynes and Boone LLP nabbed fourth place, with 195 trials over the past three years, and Los Angeles-based Russ August & Kabat came in fifth, with 187 trials during that time.

W. Karl Renner, chair of Fish & Richardson's post-grant practice, told Law360 that the PTAB is "the perfect intersection" for the IP boutique, which he said has a track record for high-quality patent prosecution and litigation in various forums, including district courts and the U.S. International Trade Commission.

"While there are some [competitors] that may be close, we really draw on our industry-leading experience in not one or two or three areas — it's at the PTAB, it's at the patent office, it's in the district court, it's at the ITC, and it's at the Federal Circuit," Renner said. "We're leading across the board, and we're bringing that experience across the board for our team's and client's benefit."











Renner added that he interviews attorneys for "every single case team on every single case," carefully selecting the attorneys who would best benefit the client.

But the firm's meticulous planning for its PTAB work doesn't stop there.

"When we do an oral argument, we have a postmortem by people that are not on that team before we get to a decision, because we want to know what the best thinking is right then," Renner said. "And with that, we are making sure that all of our members are exposed to the most interesting and up-to-date strategies."

## The Go-To Firms for PTAB Trials, 2020-2022

Fish & Richardson tops the list of firms that handled the most PTAB trials over the last three years.

Firm	Case filings from 2020 to 2022	Total trials	For petitioner	Patents
Fish & Richardson		484	72.3%	391
Finnegan		324	73.8%	288
Sterne Kessler		216	46.3%	139
Haynes and Boone		195	83.1%	177
Russ August		187	0.0%	114
Baker Botts		181	79.0%	162
Ropes & Gray		175	76.6%	140
Kirkland		169	81.7%	157
Quinn Emanuel		166	58.4%	142
Paul Hastings		163	87.1%	129

Source: Lex Machina • [Get the data](#) • Created with [Datawrapper](#)



IP boutique Finnegan Henderson is also a heavy hitter at the PTAB. Joshua L. Goldberg, leader of Finnegan Henderson's PTAB trials section, told Law360 that "a lot of it comes down to doing it since the beginning, and doing it in a big way since the beginning."

"We were involved in the very first case ... on the day that PTAB proceedings came into existence," Goldberg said, referring to a post-grant review on behalf of client SAP America Inc. that challenged a pricing patent, which was ultimately invalidated. "We have built up a ton of experience over the years, and as with most things, experience tends to lead to better results."

It's no surprise why IP boutiques have continued to dominate at the PTAB, according to Jon E. Wright, a director in Sterne Kessler's trial and appellate practice group.

"IP specialty firms are still the firms that clients seek out when it comes to PTAB trials work because they know that IP specialty firms — and we are included among those — can typically bring a very deep technical bench," Wright said.

Because of that, the firm can put attorneys on the case who know how the U.S. Patent and Trademark

Office works "from cradle to grave," Wright said.

"We have literally over 100,000 hours of PTAB trial experience," he said. "We know what is effective at the PTAB and what is not effective."

However, Lex Machina's data shows that some BigLaw firms are gaining traction at the PTAB.

In addition to ranking fourth overall on the list, Haynes and Boone has seen its PTAB work steadily climb over the years, taking on 56 trials in 2020, 65 in 2021 and 74 last year. Similarly, Baker Botts LLP has also gradually boosted its presence at the PTAB over the last three years, handling 77 trials in 2022 — making it the third-busiest firm at the PTAB last year — up from 44 trials in 2020.

Eliot D. Williams, chair of Baker Botts' Palo Alto IP department, told Law360 that the firm's IP group is a little different from one at a typical general practice firm. Almost all of its patent attorneys "have technical degrees — which is not necessarily the case in other large IP groups that do sort of the same portfolio work we do — and I think in the PTAB practice, that really does help," Williams said.

Many lawyers in the BigLaw firm's IP department "focus most of their work on PTAB practice," noted Chad C. Walters, a member of Baker Botts' post-grant practice committee.

"And most of those lawyers have extensive backgrounds in both litigation and on the patent prosecution side," Walters said. "That sort of hybrid mix, I think, certainly helps on the PTAB work, makes for a better practitioner, and shows up in our results."

--Editing by Alanna Weissman and Emily Kokoll.

*Note: Law360 is owned by LexisNexis Legal & Professional, a RELX company, which owns Lex Machina.*