Patents

# 50 most influential people in IP 2021: industry leaders

Our list includes 21 industry leaders, the details of whom you can find below along with the full list of names that make up the top 50

*By* **Ed Conlon**

*By* **Max Walters**

*By* **Patrick Wingrove**

*By* **Rani Mehta**

*By* **Rory O'Neill**

*By* **Sukanya Sarkar**

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MIP
TOP
50
Industry leaders

## Brett Alten, chief IP counsel, HPE

### *Click here to read the full interview*

Brett Alten may be best known in the legal world for heading HPE's intellectual property department, but it's his environmental work that has made him stand out this year.

At a time when governments and innovators are prioritising environmental action, emphasised by summits such as COP26, Alten has done his part by launching the Low Carbon Patent Pledge.

As part of this pledge, companies can grant royalty-free patent licences for technologies used to generate, store, or distribute low-carbon energy from solar, wind, ocean, hydropower, or geothermal sources.

HPE started the pledge with Microsoft and Facebook, but has since attracted JP Morgan, software company Micro Focus and billionaire Majid Al Futtaim to the cause. Alten is currently in talks with other companies that have expressed interest in joining.

Pledges such as these may become more important as the threat of climate change continues to increase and as demands that businesses, governments and individuals come together to fight for solutions grow.

Though patents will help incentivise innovation, easy and free access to new inventions that could spur the manufacture of eco-friendly technologies will be important as well.

On top of this, Alten helped his company launch the Defensive Patent Purchase Right this year. In this scheme, approved partners can purchase HPE patents to defend themselves against patent litigation.

## Trevor Arnold, chief IP counsel, Arthrex

Since the inception of the Patent Trial and Appeal Board, various parties have made challenges to its constitutionality. These have all failed, except for one (sort of), which was decided by the Supreme Court this year and managed by this top 50 nominee – Trevor Arnold.

SCOTUS found in *US v Arthrex* in June that the appointment of administrative patent judges (APJs) was unconstitutional – granting Arnold, chief IP counsel at Arthrex, and his team a partial victory.

Arthrex had argued at the Court of Appeals for the Federal Circuit in *Arthrex v Smith & Nephew* (which SCOTUS consolidated with *Smith & Nephew v Arthrex*, the parallel PTAB case) that APJs were unconstitutionally appointed because they were not inferior officers.

SCOTUS agreed but said the problem could be fixed by giving the USPTO director more power to overturn APJs' decisions. In response to this ruling, the USPTO established a new director review process.

The judgment came as a relief to many. Intellectual property stakeholders had worried that SCOTUS would find that the Federal Circuit's remedy was not appropriate and not issue a fix of its own, which would have thrown all inter partes review petitions into the realms of uncertainty.

But it's likely that this judgment, pushed for by Arnold, will be significant for years to come. Counsel expressed some concern that it could open the USPTO head to political lobbying, while congressmen worried that Arthrex might give the USPTO director too much power over APJs and the PTAB.

So far, Drew Hirshfeld – who has been de-facto director for most of this year – has only used this process once: for a PTAB decision invalidating a Samsung patent.

## Brian Blasius, president and CEO, PanOptis

Brian Blasius made last year's list because of his company's landmark success in *Unwired Planet v Huawei* at the UK Supreme Court (PanOptis owns Unwired Planet). He retains his place this year because the PanOptis group has continued to enjoy extraordinary success, namely in its global litigation against Apple.

In August, a Texas court ordered Apple to pay $300 million to Optis Wireless for infringing its 4G patents – a huge sum, although actually something of a reprieve for Apple, given that said number was more than $200 million less than the tech company lost in an earlier 2020 judgment.

Perhaps a more influential development occurred in the UK branch of this case, however, in which the England and Wales High Court handed down a ground-breaking decision for standard essential patents (SEP).

SEP owners and implementers around the world will have taken note in September when Mr Justice Richard Meade ordered Apple to agree to take a court-determined royalty for Optis Wireless' patents or face an injunction.

As Managing IP reported in November, Apple subsequently agreed to pay whatever the court later determined to be fair, reasonable, and non-discriminatory (FRAND) rather than exit the UK market.

While the exact figures won't be determined until June 2022, the case has laid down an important precedent. Under the approach taken by Meade (another 2021 top 50 winner), implementers need to be prepared to sign up to a blind FRAND licence, with no foreknowledge of what the terms might be.

That is, of course, unless they decide that remaining in the UK market isn't worth it.

## Neil Boyd, head of European IP and IP enforcement, Nintendo

The concept of website blocking orders is not new.

These orders were first made available to copyright owners in Europe following the England and Wales High Court's ruling in *Twentieth Century Fox v BT* (2011), and were extended to cover trademark-infringing content by the same court in *Cartier v BT* in 2014.

But Neil Boyd, head of European IP and IP enforcement at games company Nintendo, took them one step further this year by helping to secure a court order that increased the scope of rights owners' power and gave them options across Europe.

In a ruling in January, the Commercial Court of Barcelona ordered six internet service providers to block access to websites that allowed users to buy software that circumvented technological protection measures (TPMs) deployed by Nintendo.

TPMs are used by rights owners to protect original copies of works, often through encryption. The sites in question allowed users to run software on Nintendo Switch consoles that bypassed these measures, allowing users to download and play pirated games.

Nintendo had previously secured a similar ruling at the England and Wales High Court in 2019, but the development this year marked the first time a blocking order had been granted by a European mainland court.

Until recently, on the European mainland at least, blocking orders had focused on websites that directly hosted infringing content.

Because the Barcelona court was interpreting Article 8(3) of the EU's Directive 2001/29 (InfoSoc Directive), the judgment could have the effect of increasing rights owners' blocking capabilities throughout the EU.

## Eveline Capol, managing director, Stop Piracy

The term 'catfishing' – thought to derive from a myth describing how live cod were shipped with catfish in the same tanks to keep the fish active, ensuring their quality – is mainly used in the online dating sphere to describe the adoption of a false persona to lure someone into interaction.

Thanks to this next entrant, however, the practice is now also associated with buying fakes online.

Eveline Capol, managing director of Switzerland-based anti-counterfeiting agency Stop Piracy, teamed up with brand owners and social media influencers this year to create a series of fake profiles to trap unsuspecting consumers.

The 'Fakefluencers' initiative resulted in the creation of profiles that exactly mirrored the real social media pages of influencers. The influencers' posts offered watches, perfumes and food at heavily discounted prices – mirroring a common counterfeiter tactic.

But instead of linking to online shops and e-commerce platforms, a specially created landing page with an anti-counterfeiting message from Stop Piracy and brand owners, including the Federation of the Swiss Watch Industry, appeared.

The Fakefluencers' posts generated more than 1.3 million impressions and had a 4.6% engagement rate, including 'likes' and comments. The campaign ended in May but similar initiatives are potentially in the pipeline.

## Evelyn Chen, director of assertion, Ericsson

As director of assertion at Ericsson, Evelyn Chen was responsible for managing her company's licensing dispute with Samsung this past year and in 2020 – a spat filled with twists and turns, including several anti-suit injunctions, in which Ericsson ultimately came out on top.

On December 25 2020, the Wuhan Intermediate Court of China issued an anti-suit injunction against Ericsson, establishing its jurisdiction to set a global licensing rate and barring the Swedish telecoms company from enforcing an injunction against Samsung.

Ericsson responded by asking the District Court for the Eastern District of Texas for its own injunction. Chief Judge Rodney Gilstrap issued an anti-anti-suit injunction against Samsung, noting that international litigation would not prevent the US from rightfully setting its own rate.

The companies settled in May 2021. Ericsson reported soon after that it expected its second quarter patent licensing revenue to hit $237 million.

And as if that weren't enough success for one year, Ericsson won its case against HTC at the US Court of Appeals for the Fifth Circuit in August – something Chen also oversaw.

The court ruled that Ericsson hadn't breached its obligation to offer HTC licences to 2G, 3G and 4G wireless patents on fair, reasonable and non-discriminatory terms.

It also rejected the Taiwanese telecoms firm's argument that patent damages-related analyses should be applied in cases involving willing licensee disputes, such as apportionment based on the smallest saleable patent practising unit.

In her role, Chen supports Ericsson's patent licensing policies and practices for its industry-leading patent portfolio of over 57,000 patents. Before joining Ericsson in 2013, she was a patent litigator and prosecutor at Sidley Austin, representing both national and international clients.

Patent owners can only hope that Chen leads her company to similar successes next year.

## David Clapper, CEO and president, Minerva

Ever wanted to argue that a patent was invalid but couldn't because you or one of your colleagues came up with the idea it covered? Now you can, in some situations, thanks to David Clapper and the company he leads.

This year, the US Supreme Court in *Minerva v Hologic* upheld the doctrine of assignor estoppel – which bars inventors from challenging their own patents – but imposed new limits on when it could be used.

The court said the doctrine applied only when an inventor said one thing (explicitly or implicitly) in assigning a patent and the opposite in litigating against the patent's owner.

It had several important effects. Some firms were forced to redo their employment agreements to make sure inventors were agreeing new assignments on every new issued patent to ensure they could use the newly narrowed doctrine if needed.

The ruling also enabled companies to recruit more freely, with greater confidence that new recruits wouldn't prevent them from scrutinising patents thrown against them if said recruits were involved in developing the inventions covered by those patents.

This issue of assignor estoppel arose in Minerva v Hologic after Hologic, a medical devices company, sued uterine health specialist Minerva for infringing certain claims of its US patents (6,872,183 and 9,095,348). Hologic had acquired the rights indirectly from the founder of Minerva, Csaba Truckai.

Clapper has been Minerva's CEO and president since 2008. He started his career at Johnson & Johnson, where he worked for 16 years before taking his first CEO role at biomaterials company Focal in 1993.

## Colette Durst, chief trademark counsel, 3M

There aren't too many companies that can claim to have an idea of the true scale of COVID-related counterfeiting. But 3M certainly understands.

It's a cliché to say counterfeiting is not a victimless crime, but our next entrant's work this year has prevented countless people from becoming victims of the already devastating pandemic.

The US-based 3M corporation, which operates in industry and worker safety, healthcare and consumer goods, has been trying to keep a lid on the sale of fake respirators and masks, the genuine versions of which have been crucial in supporting efforts to treat people suffering with severe COVID symptoms.

This task, which spanned much of last year as well as 2021, fell on Colette Durst, the company's chief trademark counsel.

"We've always had an anti-counterfeiting programme for our respirators, but no one was planning on a pandemic where we would find such a volume of counterfeiting activity," Durst said in a previous interview with Managing IP.

As well as working with law enforcement on the ground, 3M used online enforcement to make it harder for counterfeiters to get fakes delivered to consumers.

The company's efforts so far have seen nearly 55 million counterfeit respirators seized, 25,000 false or deceptive social media posts removed, and more than 26,000 fraudulent e-commerce listings taken down.

The numbers provide a shocking insight into the scale of counterfeiting. Had it not been for Durst and her team, those fakes may have made it onto the front line and the number of COVID-related deaths may well have been worse than what we see today.

## Alan Fan, vice president and head of IP, Huawei

### *Click here to read the full interview*

Alan Fan makes the list despite being relatively new to his position as Huawei's vice president for IP, a job he took up in May.

Arguably, he earns his place simply by taking the helm at one of the most important IP departments in the world.

Huawei has firmly established itself as a leader in cellular standards and, in particular, patents essential to 5G.

It is also one of the world's major smartphone makers, cementing its position as one of the biggest players in global telecommunications.

But 2021 proved to be a huge year for Huawei's IP team, and Fan was already a pivotal member of it before his promotion in May.

Fan had served as vice president of IP strategy and international legal policy since 2018, having joined the company in 1999.

That made him ideally positioned to replace Jason Ding, the former Huawei IP chief, who has moved to the company's energy-focused subsidiary.

By the time Fan switched roles, it had already been an eventful year for the team.

In March, Huawei announced its licensing rates for what it claimed was the world's biggest portfolio of 5G standard-essential patents (SEPs).

The rate for smartphone makers would be capped at $2.50 per phone, the Chinese telecoms company announced, helping to drive an estimated $1.3 billion in licensing revenues between 2019 and 2021.

The company announced that it had earned $600 million in patent royalties in the first quarter of this year.

The drive to boost licensing revenues has continued under Fan's leadership. In July, Huawei reached a licensing deal with Volkswagen, in what the company says is its biggest ever licensing agreement in the automotive sector.

## Gena Feist, deputy general counsel, Epic Games

Gena Feist planted seeds during her previous position as Rockstar Games' divisional general counsel that have begun to bear fruit.

In April, an expansion of New York's Civil Rights Law came into effect. The amendments were initially passed in November last year. At the same time, a separate expansion of the state's anti-slapp (strategic lawsuit against public participation) law has also taken effect.

The anti-SLAPP amendments, which one source says Feist "had banged the drum in favour of" help intellectual property owners quickly dispose of meritless claims.

The updated civil rights law ensures a traditional post-mortem right of publicity (ROP) and a novel right related to digital replicas (including holograms). Under the updated laws, a deceased person's estate can protect a name, voice, signature, photograph, or likeness against unauthorised use in products, merchandise, or goods.

Feist has since spoken at various industry events, including one for the American Bar Association, to discuss the impact of these expansions.

In her new role with Epic Games, Feist was also part of the in-house litigation team that brought antitrust claims against Google and Apple. The Apple case has already resulted in a notable US court ruling in which antitrust and IP collided.

In September, the US District Court for the Northern District of California decided that Apple couldn't prohibit developers from providing links or buttons to alternate payment systems or from informing users that they could purchase goods and services cheaper outside its app.

The court added that by steering users to its own payment system, Apple (which generates a 30% commission per sale on its platform) was able to monetise its IP among other business benefits.

The Google case is expected to go to trial next year.

## Scott Frank, CEO of IP, AT&T

***Click here to listen the full podcast***

As CEO of intellectual property at one of the world's largest telecoms companies, Scott Frank is already a very influential figure in the IP world.

But Frank's work on setting up and managing the US Intellectual Property Alliance (USIPA) and a global version of that organisation put him over the top in Managing IP's selection process for the top 50 list this year.

The USIPA, which was modelled on the Georgia IP Alliance (which Frank also founded), was built with a three-pronged mandate to drive awareness and education, enable ecosystem collaboration, and facilitate diversity and inclusion.

Frank and several prominent members of the IP community, including former USPTO director Dave Kappos and former circuit judge Paul Michel, launched the USIPA in January with 60 board members from organisations such as the USPTO and the US Chamber of Commerce.

Since then, the USIPA has gone from strength to strength. The organisation set up a global IP committee with the help of Lisa Jorgenson, WIPO deputy director general for patents and technology, in September.

That same month, the AT&T boss told Managing IP that he'd also set his sights on the creation of the Global IP Alliance.

He said he would work closely with Jorgenson to set up the new organisation, which should be ready by autumn 2022.

Frank has been the CEO and president of IP at AT&T since 2006, when the telecoms leader acquired BellSouth Intellectual Property (where he was president) for $86 billion.

## Roger Gallant, patent law director, Canopy Growth

Cannabis-related intellectual property is a tricky subject – at least in the US. Unlike in Canada, where cannabis was legalised across the country in 2018, only 18 states in the US have legalised medical marijuana. The use or sale of the drug remains illegal at a federal level.

Companies can file and obtain patents on cannabis inventions, but there's still some doubt over whether US courts would allow parties to enforce federal rights for inventions related to an illegal substance.

There's also been some criticism of the types of cannabis-related inventions that have been patented at the USPTO, with some onlookers suggesting that a lot of what has been protected has been known for thousands of years.

Stakeholders were hoping that United Cannabis Corporation (UCANN) v Pure Hemp Collective would shed some light on what cannabis inventions could or couldn't be patented at the USPTO, and on whether these patents could be enforced.

But the matter, which was filed at the District Court for the District of Colorado in 2018 over US patent number 9,730,911, was dropped in April.

Enter Roger Gallant and Canopy Growth. Under the leadership of the patent director based in Ottawa, Canopy Growth filed a patent infringement case against GW Pharmaceuticals at the District Court for the Western District of Texas in December 2020.

Canopy alleged that GW, a UK-based pharma company with one of the largest cannabis patent portfolios in the world, had infringed US patent number 10,870,632, which covers a process for producing an extract containing tetrahydrocannabinol and cannabidiol (CBD) from cannabis plant material and extracts.

Sources told Managing IP in April that all eyes were on the new case, with hope that the same questions that should have been hashed out in UCANN v Pure Hemp would be answered here.

Gallant joined Canopy in January 2019. Before that, he worked as a senior associate at Smart & Biggar for 10 years.

## John Geis, assistant general counsel for IP, American Axle Manufacturing

Counsel in the pharmaceutical, diagnostics and software industries (some firms in that last sector, anyway) are still infuriated at the state of patent eligibility in the US, which is set out in Section 101 under Title 35 of the US Code, since the Supreme Court ruled on Mayo, Myriad and Alice.

But there might be some light at the end of the tunnel – and if there is, it will be thanks to our next top 50 selection.

John Geis, assistant general counsel for IP at American Axle Manufacturing, led his company's charge against Neapco for patent infringement, oversaw the case at the Court of Appeals for the Federal Circuit and was responsible for its appeal to SCOTUS.

In 2019, the Federal Circuit invalidated American Axle's patent, directed to making drive shafts, on the basis that it merely described a desired result and was thus ineligible for patent protection under Section 101.

The following year, 12 judges from the Federal Circuit were evenly divided on whether American Axle should be reheard by the whole court, illustrating the mess of the patent eligibility legal framework in the US.

The petition for writ of certiorari has yet to be granted, but it has a good chance. In May, SCOTUS requested the views of the solicitor general on whether it should accept American Axle's certiorari petition.

It did so, in part, because of the fervour patent owners and government stakeholders demonstrated on the subject of Section 101 this year because of the American Axle petition, both to the press and SCOTUS itself.

Diagnostics firms told Managing IP in February that they wanted the case to drive change to the patent eligibility framework.

In March, Senator Thom Tillis, former circuit judge Paul Michel and former USPTO director Dave Kappos filed an amicus brief at SCOTUS arguing that the high court should take up American Axle to finally fix Section 101.

They said failure to address and clarify Section 101 threatened America's ability to maintain its leadership role in innovation, defence, and economic superiority on the global stage.

The New York Intellectual Property Law Association, the Houston Intellectual Property Law Association, and The Chicago Patent Attorneys filed similar amicus briefs around the same time.

The solicitor general has yet to get back with his views. But the fact that SCOTUS asked at all rather than simply deny the petition – as it has done with every other Section 101 case since Alice – was a huge achievement for Geis, who has worked as an IP lawyer at American Axle since 2014.

American Axle is now the most important patent eligibility case in the US because it's given patent owners more hope of a judicial Section 101 fix than ever before.

## Clemens Heusch, vice president and global head of dispute resolution, Nokia

This is the third time Nokia's dispute resolution head Clemens Heusch has made it onto our top 50 list – this time for facilitating a landmark settlement with Daimler, the maker of Mercedes-Benz cars.

Nokia and Daimler had been in a high-profile standard essential patent (SEP) dispute since 2019, when Nokia sued Daimler in Mannheim, Munich and Düsseldorf. The German car maker had asked EU antitrust regulators to probe Nokia's patents.

Daimler had argued that Nokia's rate was not fair, reasonable and non-discriminatory, partly because the Finnish telecoms company had allegedly refused to license its patents to Daimler's suppliers.

The two companies settled in June, bringing all litigation and Daimler's EU antitrust request to an abrupt conclusion.

By helping end the spat, Heusch has been influential in two ways. First, the settlement forced Daimler – one of the fiercest detractors of end-point licensing in automotive – to finally give in and accept licensing practices favoured by patent owners.

That potential realisation would have been extremely disheartening to automotive SEP implementers, slowing down their push to make component-level licensing the norm – and, perhaps further down the line, ending it altogether.

Second, the agreement ended the referral on the question of component-level versus end-point licensing at the Court of Justice of the EU, quashing any hope from SEP stakeholders of an EU-wide judicial policy being established in the matter.

Heusch, who is based in Munich, has worked as a litigator for Nokia since 2008, when he took the job of head of European litigation.

## Renny Hwang, director of litigation, Google

***Click here to read the full interview***

It may not come as a surprise that the director of litigation at the company that won the biggest copyright case of the decade would feature in Managing IP's list of most influential people in intellectual property.

Renny Hwang helped lead his team and company to victory this year at the US Supreme Court in Google v Oracle – a case in which the court considered whether application programming interfaces (APIs) could be protected by copyright.

Many stakeholders felt that the industry was operating under an assumption that these interfaces were not copyrightable, and therefore hoped the court would rule in Google's favour on this issue.

In the end, SCOTUS sidestepped this issue and ruled that even if APIs could be copyright protected, Google's use of Oracle's code was fair.

Lawyers were disappointed that the high court didn't fully back Google in its arguments, but were still pleased with the ruling.

Counsel told Managing IP when the decision came out in April that the victory might make it easier for counsel to end software copyright cases at the summary judgment stage and avoid expensive jury trials.

Although this win may be Hwang's most notable accomplishment this year, it wasn't his only one.

Hwang and his team won a case at the District Court for the Western District of Texas in October, in which the jury found that Google did not infringe patents belonging to non-practising entity Profectus Technology and that the asserted claims were invalid.

Such victories may not have been easy to obtain, but they have helped ensure freedom to operate for Google and others.

## Thomas Jenkins, head of global IP litigation, Viatris (Mylan)

Thomas Jenkins, head of global IP litigation at generic drugs company Viatris, has earned his place in this year's list with his stellar performance in Hatch-Waxman disputes.

In late 2020 and 2021, the IP litigation team at Mylan (which merged with Upjohn to form Viatris) secured back-to-back wins in Hatch-Waxman venue disputes, clarifying the rules for where cases related to abbreviated new drug applications (ANDA) could be brought.

The Hatch-Waxman Act provides a cause of action for infringement based on the submission of an ANDA, but is ambiguous on venue.

In November 2020, the Court of Appeals for the Federal Circuit ruled in favour of Mylan in *Valeant v Mylan*, holding that acts of infringement in Hatch-Waxman matters occurred only in districts where actions related to ANDA submissions occurred.

The acts did not occur, the court added, in all locations where the future distribution of the generic products was contemplated. The District Court for the District of New Jersey had previously sided with Mylan as well.

Patent counsel believed the decision would help some generic drug companies litigate ANDA matters in their preferred forum, but noted that most would likely still end up in New Jersey or the District Court for the District of Delaware, where most ANDA cases are fought.

On November 5 this year, the Federal Circuit again agreed with Mylan in *Celgene v Mylan* to hold that the District Court for the District of New Jersey was an improper venue for Celgene to sue Mylan.

The court further clarified venue rules, holding that only the submission of the ANDA qualified as an act of infringement for venue purposes, not any action related to the submission.

Jenkins clearly had his work cut out this past year, but this didn't stop him from making a big splash in the industry.

## Philip and Rebecca Rayner, co-owners, Glebe Farm Foods

Philip and Rebecca Rayner secured a major victory this year, both in court and in the court of public opinion.

The team of siblings, who own and run Glebe Farm Foods in the UK, won a trademark dispute against plant-based milk manufacturer Oatly in August. Oatly alleged that Glebe Farm's PureOaty infringed its mark.

The Rayners won their case when Deputy High Court Judge Nicholas Caddick decided that there was little chance of relevant confusion arising from the defendant's mark. He also found that the terms 'Pure' and 'Oaty' were descriptive.

Other brands might want to take note of this case for a few reasons.

First, as the lawyers who represented Glebe Farm pointed out in a Managing IP article, the judgment could make it harder for companies to stop other brands from using descriptive terms.

The decision is also notable because it involves a rapidly scaling industry. A Bloomberg Intelligence report found that the plant-based food market was valued at $29.4 billion in 2020 but would reach $162 billion within the next 10 years.

The Rayners' victory also illustrates that new entrants to the plant-based food space can win trademark cases, even with fewer resources than existing players.

This case received a lot of attention in the press and among members of the public, many of whom sided with the Rayner siblings over Oatly. A Change.org petition demanding that Oatly not seek an injunction on Glebe Farms received 131,554 signatures.

## David Shaman, chief legal officer, Bentley Systems

Without David Shaman, we might not be able to patent computer-implemented simulations at the EPO, which is why he makes our top 50 list this year.

The chief legal officer at Bentley Systems, a computer software business, oversaw a challenge to a rejection of his company's patent called 'Simulation of the movement of an autonomous entity through an environment' at the EPO.

The invention was a simulation of pedestrian movement that could be used to help design or modify venues such as railway stations or stadiums. The patent claimed to provide a realistic simulation for real-world situations, which couldn't be modelled by conventional simulators.

In February 2019, the EPO rejected the application. After the refusal, Bentley appealed to the EPO's Technical Board of Appeal, which referred questions to the Enlarged Board of Appeal (EBoA).

This year, that action was considered by the EBoA, which found in March that numerical simulations were patentable just like any other type of computer-implemented invention.

Counsel told Managing IP shortly after the ruling that a decision the other way would have severely damaged European industries that either created simulations or increasingly relied on software to test physical processes and methods before they were implemented.

Shaman joined Bentley in 1998 as deputy general counsel in its Netherlands office and became chief legal officer in 2016.

Before joining Bentley, Shaman worked as an attorney at Covington.

## Niall Trainor, senior director of brand protection, eOne

Some Western brands can make a pig's ear of trying to achieve 'well-known' trademark status in China – but not the Canada-based television company eOne, which owns the IP rights to the children's cartoon character Peppa Pig.

In a ruling handed down in March, the Shanghai IP Court awarded well-known status to the 'Peppa Pig' trademark, thanks to the efforts of eOne's senior director for brand protection, Niall Trainor.

The ruling means Peppa Pig joins the likes of Coca-Cola, IBM and BMW in achieving well-known status.

If a trademark is well known, its owners can bring an infringement claim relating to all classes (even those for which they do not have protection) and have stronger grounds for alleged infringement surrounding third-party domain names.

The company had sued an individual who had sold table lamps emblazoned with an image of Peppa Pig along with the name of the character.

Even though the 'Peppa Pig' trademark registration in China did not cover lamps, eOne won the case because it could prove well-known status.

According to the court, eOne's evidence – which Trainor previously explained was extensive – showed that Peppa Pig had achieved an extremely high broadcast rate on China Central Television as well as on several video platforms, and that the character had become "extremely popular with consumers".

The ruling provided other Western brands with a blueprint for how to achieve well-known status in China.

One might say that Trainor and eOne brought home the bacon this year.

## Leo Xie, vice president of legal affairs and deputy general counsel, Tencent

Leo Xie, vice president of legal affairs and deputy general counsel at Tencent, deserves recognition for his active role in fighting against domestic and transnational crimes relating to trademark infringement.

Tencent is at the top of its game when it comes to employing and building solutions based on emerging technology such as artificial intelligence (AI), blockchain and data mining. Xie took it one step further by using new-age technology for infringement and anti-counterfeiting measures.

Under his leadership, the brand protection team of Tencent used data mining and AI technology to assist the police in an operation against a chain of suppliers and distributors in China and the UAE.

Tencent also won some significant IP battles this year, including back-to-back disputes with another tech leader, ByteDance.

In April, the Guangzhou Intellectual Property Court ruled that ByteDance violated Tencent's copyright by incentivising users to livestream clips from its game Honor of Kings, ordering ByteDance to pay ¥8 million ($1.2 million) as compensation.

In August, Tencent secured another ¥600,000 ($92,600) against ByteDance from the Shenzhen Intermediate People's Court for economic losses and other expenses relating to copyright violations of Honor of Kings.

Tencent initiated another copyright infringement suit against ByteDance in August over its popular TV series Crime Crackdown, causing ByteDance to take down more than 8,000 clips from its platform.

Although the decisions are under appeal, they highlight what an IP team hellbent on enforcement can achieve.

## Eran Zur, managing director and head of IP business, Fortress Investment Group

Eran Zur, managing director and the head of the intellectual property business at Fortress Investment Group, has made it onto this year's list for leading the investment company to some significant IP wins.

The hedge fund has been at the centre of several high-value patent disputes in 2021, and has reportedly invested $900 million in IP-related projects.

Heading the IP business of a company that has been accused of engaging in mass patent aggregation and litigations on more than one occasion is not an easy task, but Zur's track record this year makes it look like a cakewalk.

In April, Fortress reached a global settlement with Apple that resulted in both companies dropping several cases against each other. Apple, for example, pulled out of a major antitrust lawsuit, which it filed alongside Intel in 2019.

Apple's withdrawal proved a fatal blow to Intel's case. The US District Court for the Northern District of California dismissed the matter against Fortress in September.

But that's not all. VLSI – an affiliate of Fortress – won a $2.18 billion damages award in March after a federal jury in Texas ruled that Intel had infringed two US patents owned by the non-practising entity.

It was the second largest patent damages award ever to be granted in the US.

Zur – who began his career as a contingency fee lawyer – has over two decades of experience in handling complex patent issues. With Zur's strong background and stellar track record in handling patent disputes this year, it seems the IP future of Fortress is in safe hands.

### Industry leaders

| Name | Position | Organisation | Country (based) |
|---|---|---|---|
| Brett Alten | Chief IP counsel | HPE | US |
| Trevor Arnold | Chief IP counsel | Arthrex | US |
| Brian Blasius | CEO and president | PanOptis | US |
| Neil Boyd | Head of European IP and IP enforcement | Nintendo | UK |
| Eveline Capol | Managing director | Stop Piracy | Switzerland |
| Evelyn Chen | Director of assertion | Ericsson | US |
| David Clapper | CEO and president | Minerva | US |
| Colette Durst | Chief trademark counsel | 3M | US |
| Alan Fan | Vice president and head of IP | Huawei | China |
| Gena Feist | Deputy general counsel | Epic Games | US |
| Scott Frank | CEO of IP | AT&T | US |
| Roger Gallant | Patent law director | Canopy Growth | Canada |
| John Geis | Assistant general counsel for IP | American Axle Manufacturing | US |
| Clemens Heusch | Vice president and global head of dispute resolution | Nokia | Germany |
| Renny Hwang | Director of litigation | Google | US |
| Thomas Jenkins | Head of global IP litigation | Viatris (Mylan) | US |
| Philip and Rebecca Rayner | Co-owners | Glebe Farm Foods | UK |
| David Shaman | Chief legal officer | Bentley Systems | US |
| Niall Trainor | Senior director of brand protection | eOne | UK |
| Leo Xie | Vice president of legal affairs and deputy general counsel | Tencent | China |
| Eran Zur | Managing director and head of IP business | Fortress Investment Group | US |

### IP authorities

| Name | Position | Organisation | Country (based) |
|---|---|---|---|

| | | | |
|---|---|---|---|
| David Gooder | Commissioner for trademarks | USPTO | US |
| Drew Hirshfeld | Patent commissioner and acting director | USPTO | US |
| Tim Moss | CEO | UKIPO | UK |
| Shira Perlmutter | Register of copyrights | US Copyright Office | US |
| Shen Changyu | Commissioner | CNIPA | China |
| Bemanya Twebaze | Director general | ARIPO | Zimbabwe |

### Judges

| **Name** | **Position** | **Organisation** | **Country (based)** |
|---|---|---|---|
| Alan Albright | Judge | US District Court for the Western District of Texas | US |
| Jonathan Beach | Judge | Federal Court of Australia | Australia |
| Fritz Blumer | Member | EPO Enlarged Board of Appeal | Germany |
| Tiffany Cunningham | Judge | US Court of Appeals for the Federal Circuit | US |
| José Antonio Dias Toffoli | Justice | Brazil Supreme Court | Brazil |
| Doris König | Vice president | Federal Constitutional Court of Germany | Germany |
| Richard Meade | Judge | England and Wales High Court | UK |
| Pratibha Singh | Judge | Delhi High Court | India |
| Xu Jun | Judge | Shanghai Pudong New Area People's Court | China |

### Public officials

| **Name** | **Position** | **Organisation** | **Country (based)** |
|---|---|---|---|
| Joe Biden | President | US government | US |
| Thierry Breton | Commissioner for the internal market | European Commission | Belgium |
| Catherine De Bolle | Executive director | Europol | The Netherlands |
| Hakeem Jeffries | Representative | Congress | US |
| Christine Lambrecht | Federal minister | German government | Germany |
| Patrick Leahy | Senator | US Congress | US |
| João Negrao | President | EUIPO | Spain |
| Nirmala Sitharaman | Minister of finance and corporate affairs | Indian government | India |
| Edwin Tong | Second minister for law | Sinapore government | Singapore |

### Notable individuals

| **Name** | **Position** | **Organisation** | **Country (based)** |
|---|---|---|---|
| Ryan Abbott | Professor of law and health sciences | Univerity of Surrey | UK |
| Meghan Markle | Duchess of Sussex | Individual | US |
| Mary Rasenberger | CEO | Authors Guild | US |
| Ankit Sahni | Owner | RAGHAV Artificial Intelligence Painting App | India |

| | | | |
|---|---|---|---|
| Mike Winkelmann (Beeple) | Digital artist | Individual | US |

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