



Kenneth W. Darby

Principal

Austin

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Overview

Kenneth Darby's practice is largely focused on post-grant proceedings at the Patent Trial and Appeal Board, where he has successfully represented both patent owners and petitioners.

In addition to petition and brief drafting in these proceedings, Kenneth has presented oral arguments before the PTAB, and he specializes in developing high-level case strategies and legal theories for his clients. Kenneth also has experience pursuing and defending appeals of PTAB decisions at the U.S. Court of Appeals for the Federal Circuit.

Beyond the substantial post-grant aspect, Kenneth's practice includes intellectual property portfolio assessment and strategy, IP due diligence, patent drafting, patent prosecution and appeals from the PTAB, patentability and freedom to operate searches, and civil litigation. He is also a content contributor for events, press releases, and publications produced by the firm.

Kenneth is an active participant in Fish's pro bono program. In 2016, he played an instrumental role in a Texas voting rights case, *Das and OCA Greater Houston v. State of Texas*, as a member of the team that collaborated with the Asian American Legal Defense and Education Fund to strike down a Texas election law that violated the federal Voting Rights Act. In addition to spearheading motions briefing on the merits, Kenneth delivered an opening statement at the U.S. District Court for the Western District of Texas in Austin that, according to Judge Robert Pitman, "was on par with some of the strongest oral advocates that come before the Court." Kenneth also participated in the appellate briefing and appeared before the U.S. Court of Appeals for the Fifth Circuit, which largely affirmed the decision.

In 2015, Kenneth graduated with honors from the University of Texas at Austin where he received the dean's achievement award in civil procedure and mass tort litigation. He received his Bachelor of Science degree in mechanical engineering from the University of Texas at Austin where he received the John W. Hargis Endowed Presidential Scholarship in Engineering and the ExxonMobil Diversity Scholarship. As a student, he was accepted into the University of Texas Emerging Scholars Program and served as a peer tutor with the Equal Opportunity in Engineering organization. Kenneth also worked consecutive terms as an engineering intern for Austin Energy, with a focus in power production. His duties included the preparation of technical feasibility reports and the virtual construction of thermodynamic models representing power generating components.

Recognitions & awards

Ones to Watch

Best Lawyers 2021-2025

Rising Star

Super Lawyers 2022-2024

On the Rise

Texas Lawyer 2024

IP Star

Managing IP 2024

Insights

Post-Grant Report | February 28, 2023

2022 Post-Grant Annual Report

Webinar | August 3, 2022

Post-Grant Considerations: What Start-Ups Need to Know

Article | June 15, 2022

Attorneys Kenneth Darby and Casey Kraning Author *Westlaw Journal IP* Article "Prior Art Stipulations, a Petitioner's Tool for Addressing *Fintiv* Denials"

Article | April 1, 2022

Fish Principals Author *Law360* Article, "USPTO Director Review Is A Rare Remedy After *Arthrex*"

Post-Grant Report | February 7, 2022

2021 Post-Grant Annual Report

Q&A | October 25, 2021

Kenneth Darby Featured in *Law.com* Series "How I Made Partner"

Blog | October 1, 2021

Legal Alert: What to Know about the Restoring the America Invents Act

Webinar | May 12, 2021

Post-Grant for Practitioners | Drafting Patent Applications to Survive IPR

Post-Grant Report | January 28, 2021

2020 Post-Grant Annual Report

Blog | March 31, 2020

Legal Alert: POP Designates Two Discretionary Denial Decisions Precedential

News

October 4, 2024

Fish & Richardson Ranked Highly by *Managing IP*, Attorneys Named IP Stars

August 26, 2024

Principal Kenneth Darby Named a 2024 On the Rise Honoree by *Texas Lawyer*

August 15, 2024

101 Fish Attorneys Included in the 2025 Edition of *The Best Lawyers in America*

August 17, 2023

101 Fish Attorneys Included in the 2024 Edition of *The Best Lawyers in America*

August 22, 2022

96 Fish Attorneys Included in the 2023 Edition of *The Best Lawyers in America*

June 27, 2022

Fish & Richardson Pro Bono Team and AALDEF Secure Federal Court Order to Allow Necessary Assistance for Texas Voters

August 19, 2021

Fish Attorneys Recognized in 2022 Edition of *The Best Lawyers in America*

March 2, 2021

Fish & Richardson Secures Denial of IPR Petitions on Behalf of Moskowitz Family LLC in Spinal Surgery Patent Dispute

January 25, 2021

Fish & Richardson Named #1 PTAB Law Firm of 2020 by *Managing Intellectual Property*

January 5, 2021

Fish & Richardson Elevates Its Most Diverse Principal Class Ever

Events

March 10, 2017

SXSW 2017: Startup Village

March 14, 2016

SXSW Interactive - Startup Village - Pub Quiz: It's Too Soon To Worry About IP, Right?

Additional insights

Publications

- "Navigating Uncertainty — Addressing Purely Functional Claim Limitations in A Post Williamson World with Ongoing PTAB Climate Change," *PTAB Bar Association Journal* (June 2019)

Speaking engagements

- UT Law 24th Annual Advanced Patent Law Institute (November 2019)

Media mentions

- Quoted, "The Stranger's Guide to PTAB Director Reviews by In-house," *Managing IP* (December 8, 2021)
 - Quoted, "How I Made Partner: 'I Have a Competitive Streak, Take Pride in My Work, and Truly Enjoy Patent Law,'" *Law.com* (October 21, 2021)
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Services

Patent Litigation

Appellate

Post-Grant

Patent

Trademark & Copyright Counseling & Prosecution

Industries

Electrical & Computer Technology

Software & Internet

Digital Media & E-Commerce

Telecommunications

Energy & Chemicals

Petrochemical

Medical Devices

Transportation, Aerospace & Defense

Manufacturing

Admissions

U.S. Patent and Trademark Office (2009)

Texas (2015)

U.S. Court of Appeals for the Federal Circuit

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

Education

J.D. with honors, University of Texas at Austin (2015)

B.S., Mechanical Engineering, University of Texas at Austin (2008)