

Joe Petersen

**Is being an attorney what you thought it would be?
How are things different from what you imagined?**

Raised on lawyer shows like LA Law I was pre-conditioned to assume that cases are resolved at trial and more often than not on the basis of an unexpected twist or change in testimony. The vast majority of trademark and copyright cases are resolved well before trial and often on summary judgment. In these types of cases, building a favorable record in discovery is key and mapping out a strategy (and accurately assessing chances of success) are far more vital to success than hoping for a miraculous development at trial.

What is your go-to piece of advice you have for upcoming associates?

Recognize that we are all very much in a service business and very often the timeliness of advice matters just as much as the quality. Keep your colleagues and clients informed of developments as soon as they happen and never try to sugarcoat an outcome or ignore an inconvenient fact.

**How has being a practicing attorney been different from what you learned in law school?
What is the most important thing you took away from your time in law school?**

I was the first member of my family to go to law school (and at this point the last). I knew very little about law firms and assumed in law school that all large law firms were more or less the same. Before joining Kilpatrick in 2005, I practiced at a few different firms and each one varied wildly in terms of transparency, collegiality and approach to ensuring that associates had exposure to multiple partners and client relationships.

Each law firm is unique in so many ways with different cultures, practice areas, and types of clients and those differences directly impact the day-to-day experience of working at the firm. **Kilpatrick is a remarkably collegial firm and, in my experience, makes significant effort to exposing associates to different practice areas and client teams.** That is invaluable in developing talent and helps maximize the opportunities for growth available to our associates.

How have things changed in your practice area of law from when you started practicing to now?

The changes have been so pervasive and extreme that they are hard to catalog or convey. When I joined my first firm, we did not communicate by e-mail which was a relatively new technology at the time and was viewed with suspicion as a means of communicating with clients, adversaries and certainly courts. They first encouraged us to respond to letters from clients enquiring about the status of matters by return letter sent within three business days. We often would dictate the letters, proof them in hard copy and they would then be mailed out. If the matter was particularly urgent, we would fax them at that point.

Nowadays, communications move at the speed of light and appropriate response times are measured in hours if not minutes. Also, at that point, copyright law was a relatively small and stable practice area dominated in NY by a few firms with deep and longstanding ties to publishing houses. Now, copyright is a booming area with clients across vast spectrums of industries.

What is your proudest moment?

I have too many of them in my personal life to mention here other than to say **they all revolve around my now adult children**. In terms of my professional life, it was the day I argued before the Second Circuit in the HathiTrust case. The argument went well, and it was clear that the Second Circuit would, as it ultimately did, rule that our university clients were protected by the fair use doctrine in digitizing millions of copyrighted works in conjunction with the Google Books project for purposes of enabling search and providing access to the print disabled. The outcome was a critical achievement for advancing technology and paved the way for Google's later fair use victory before the Second Circuit.

What's a story you've heard/witnessed during your tenure as an attorney that's always stuck with you?

When I was a relatively junior associate, I was asked to fly to London on a moment's notice to cover a third-party deposition (the lawyer who was supposed to cover the deposition had an emergency of some kind and couldn't attend and the deposition could not be rescheduled.) I was not expected to examine the witness at length as the deposition was the result of a subpoena issued by the other side to the case and I was there just in case the testimony went in an unexpected direction. The witness testified to a number of matters that we were not expecting him to cover, including the date on which a particular product was first offered for sale in the U.S.

The lawyer for the other side was a very experienced partner at a high-profile firm and many of our IP partners probably have heard from him. I was impressed by his reputation and when he developed the testimony, I thought to myself that I would probably not be able to poke any holes in it given the reputation of the lawyer that was conducting the questioning on the other side. I went about doing the best I could to undermine the testimony and to my astonishment in response to my questioning the witness admitted that he created the piece of evidence that formed the basis of his testimony only after meeting the esteemed lawyer on the other side. The experience taught me **never to be cowed by the reputation of the lawyer on the other side** and that even when the chips are down during witness testimony careful examination can uncover hidden gems (so I guess my love of that type of moment in LA Law prepared me well after all).

**What are your hobbies/interests outside of law?
How do those skills/interests help your practice?**

I enjoy skiing, making pizza, trying to build out a serviceable home gym and regular trips to as many different restaurants as I can. I am also an inveterate putterer around the house with little in the way of substantive achievements in that area.

What has been the biggest difference between being an associate and being partner?

The amount of marketing and administrative work that comes with being a partner is daunting and you have to be very deliberate in where you devote your time and energy. Also, you become acutely aware of the expression that **success has many fathers and that failure is an orphan**. When you're the partner in charge of the case you ultimately have responsibility when things do not turn out the way you – or the client – hoped and that can be very difficult. In those moments, having colleagues you trust and who you can commiserate with is really key (as is outside interests and never underestimate the joy of an occasional Manhattan ...).

What drew you to Big Law and what has made you stay?

I wanted exposure to a broad array of cases and clients thinking that would be the best way to figure out the type of practice I wanted to try to cultivate. I've stayed with it because of the relationships I've formed along the way, both in the firm and with clients.

After becoming an attorney, what made you want to stay working as an attorney?

The job is intellectually demanding. You are constantly required to keep up to date with changes in the law and technology and **your colleagues and adversaries are some of the brightest, most competitive individuals you can possibly encounter**. If that doesn't excite you this type of practice may not be the best fit.

Joe Petersen

Managing Partner of the
Silicon Valley Office

