

# Michael A. Jaskolski

## Partner

Thank you for spending a few minutes to look over my in-depth biography. It is my hope that you will get a sense of who I am and what a working relationship would be like through this description of the practice I have built over the last 30 years. My law practice is founded on my passion and commitment to serve my clients first and foremost.

I really appreciate your time and encourage you to give me a call (cell usually is best) to get even better acquainted or to allow me to answer any questions you may have.

## About my practice

I and my team members have developed several extremely powerful tools and processes in our practice that we refer to by acronyms in the interest of simplicity. I reference several of these acronyms in the material that follows. As I reflect on this material, I cannot help but notice that the two acronyms which appear most often are highly significant in their prevalence. A first acronym that appears often is "**CAT**," which refers to "Collaboration Action Team." A CAT comprises a customized team of Quarles & Brady attorneys and other staff who collaborate to provide client services. The prevalence of the CAT acronym reveals one of my fundamental practice philosophies, which is that when you hire me, you get a CAT and all the advantages associated with a team of highly skilled people who collaboratively bring their unique abilities to bear on your matters and objectives.

A second acronym that appears often in this material is "**DOSP**," which refers to "Dangers, Opportunities, Strengths and Preferences." Like CAT, the prevalence of the DOSP acronym reflects another one of my practice philosophies which is that my CATs are constantly resolute in refining our understanding of client DOSPs in all aspects of our services.

## A Guiding Philosophy - Right Ideals Lead To Right Ideas

As I think about what my colleagues and I do for clients, it is difficult to sum it up in a list of specific accomplishments, achievements, honors, results, capabilities and victories. While I do provide professional accomplishments below for those who are interested, I think a description of the processes developed over my many years in practice are more informative and illustrative of the ways my colleagues and I provide the best client experience available.

Ultimately I see myself and my CATs as "**collaborative, optimizing, proactive, champions**" for our clients. While only a few words, they pack a lot of meaning for my CATs and me. I elaborate on each element to give you an appreciation of what they mean to us:

- **Collaborative** I know I have several unique abilities, one of which is an ability to look at traditional or conventional ways of doing something and simply figure out a better way or better idea (e.g., more efficient, more effective, faster, less costly, better results, etc.). While new ideas are great, they are "a dime a dozen" and almost always require many specialized resources, including knowledge, skills and time to develop.



michael.jaskolski@quarles.com

### Cellular:

Tel: (262) 844-3083

### Milwaukee Office

Tel: (414) 277-5711

Fax: (414) 978-8711

I am extremely self-aware and am clear that I have more ideas than personal resources. Fortunately, I work at Quarles & Brady, a firm that has an abundance of highly specialized resources, including people with unique abilities that compliment my own. Any time a matter or idea requires any resource that is not squarely aligned with my set of unique abilities, one options is to develop those capabilities myself. Given the unique abilities of my colleagues, a better option is often to assemble a collaboration action team (CAT) tailored to the task at hand. The results for my clients have been amazing, including more rapid, efficient and effective services as well as better results at a reduced overall cost. In fact, I am clear that many of my "accomplishments" could not have been achieved if I relied on my limited time and other resources alone.

I have formed CATs for many clients and for specific matters where members are selected because their unique abilities align directly with specific current and future client needs. CATs meet routinely to discuss ongoing matters, as well as related client and matter circumstances (e.g., dangers, opportunities, strengths and preferences (DOSP), to identify additional current and future required or useful capabilities and resources and to establish and commit to action plans for developing those capabilities and resources.

One fantastic thing about a great CAT is that properly staffed CAT members only do what they are great at. People that develop an expertise in something more often than not end up really liking what they are doing, and I find that people that like what they do bring more energy, commitment and thought to their work. Another great thing about my well-functioning CATs is that they free me up to do what I do best and to use my own unique abilities more rather than less. Thus, my CATs are symbiotic in that they are great for both my team members and myself, where all members thrive within their unique ability arenas.

While collaboration is essential within Quarles & Brady, CAT collaboration always extends outside the firm and, in fact, always *starts* with my clients. Clients uniquely possess DOSP information necessary for understanding client objectives and developing client-tailored, optimized solutions. I have yet to identify any two clients with the same DOSPs and, in almost all cases, client DOSPs are dynamic (e.g., changing over time) and unknowable without client collaboration.

- **Optimizing** - In any service business, the most important resource is people, and my CATs are no exception. As a baseline, my CATs always include members that possess unique abilities that fulfill CAT resource needs.

CAT members are empowered to own tasks aligned with their unique abilities. "Owning" a CAT task includes three things: First, owning a task includes timely and efficient task completion. Second, owning a task includes constantly considering new solutions (e.g. developing new ideas). While the intention behind drafting laws and regulations is to provide rules that are clear and easy to apply, case specific factors routinely position matters in space not directly covered by the "letter of the law," so that clarity and easy application are often the exception and not the rule. Understanding laws and regulations is complicated by the fact that laws and regulations may change, especially in rapidly evolving technologies leading to new legal issues related to privacy, ownership, and data security. Additionally, the newness of some issues can mean there is simply little jurisprudence built up around how new laws and regulations should be applied or interpreted to fill in unforeseen gaps in law and regulatory provisions. CAT members are expected to relentlessly refine their understanding of how laws and regulations are applied in practice and to seek new solutions to address owned tasks.

Third, owning a task includes constantly considering new processes/innovations that can make that task easier, more efficient or more effective. Most tasks, and especially repetitive tasks, are always ripe for improvement, and CAT members are expected to improve process constantly.

The above constant swirl of great people collaboratively applying unique abilities to owned tasks required to handle client matters yields optimized results as well as task and process improvements that inure to our clients' benefit.

I am clear on my CATs' strengths and capabilities where Quarles & Brady excels. I am also clear on capabilities Quarles & Brady does *not* possess and for one or another reasons will not develop (e.g., specific niche legal disciplines our clients rarely require, services so well developed by other entities that it makes no sense for Quarles & Brady to provide the service, etc.). In cases where a client needs a service Quarles & Brady does not provide, we have strong relationships with other entities that complement our capabilities and routinely collaborate with those entities to align integrated solutions with client objectives. In short, we routinely tap into optimized capabilities whenever needed and wherever they exist to achieve client objectives.

- **Proactive** - In all things, knowledge *can* equate to power. I say knowledge *can* equate to power because there is a temporal aspect to knowledge which affects the equation. *Only timely knowledge equates to power.* In law, timely knowledge applies to several types of knowledge, hereafter noted as "**essential knowledge**," including:
  - (i) existing and changing law (e.g., letter of law, how courts and administrative agencies apply law, legislative, industry and competitor rumblings associated with changing law, public opinion, etc.);
  - (ii) client dangers, opportunities, strengths and preferences (DOSPs);
  - (iii) matter DOSPs;
  - (iv) client objectives;
  - (v) legal and business solution options crafted to achieve objectives; and
  - (vi) tactics selected to implement solutions.

In law, timely knowledge affords several advantages. First, timely knowledge enables my CATs to educate clients about unforeseen dangers, opportunities and strengths so that they can develop informed preferences and objectives, enabling my CAT and me to select and implement optimized solutions and tactics. In many cases, our clients are simply not in a position to understand existing and changing laws or their own DOSPs, and therefore, timely development of essential knowledge is crucial to avoiding risk and taking advantage of opportunities and strengths.

Second, timely knowledge increases our capabilities as it affords a greater number of, and often better, solutions to achieve client objectives. Here, timely knowledge is often necessary as laws and business considerations routinely impose deadlines and many solutions expire if not timely recognized and employed. In addition, some solutions can be eviscerated as a matter unfolds and primary factors (e.g., outcome determinative or highly impactful factors) become fully developed.

Third, timely knowledge fosters solution confidence. Business objective solutions are not selected in a vacuum. Solutions are selected based on what we know. Intuitively, everyone understands that more knowledge leads to better solutions and that complete knowledge (e.g., as much as possible at a specific time) often yields optimized solutions. Timely knowledge is as much knowledge as possible at an instant in time and therefore imbues our solutions with confidence.

Fourth, timely knowledge enables matter influence and control. Our resolve to seek timely knowledge (often as fast as possible (AFAP)) routinely means we have game-changing essential knowledge weeks, if not months, prior to other parties (e.g., government agencies, opposing counsel, client customers and partners, etc.) affected by matter solutions. Timely command of essential knowledge enables us to discern how a series of tactics should affect matter progress and likely responses of other affected parties well into the future and, often times through matter completion, affording us opportunities to tweak or change tactics to influence/control results.

Fifth, the upshot to timely knowledge is simply better results that achieve client objectives as quickly and cost effectively as possible.

For my CATs, timely knowledge is grounded in **prudent proactivity**. For us, proactivity means looking ahead and around corners to understand essential knowledge (see 6 types of essential knowledge above). Prudent means doing the looking and understanding at optimal times. In this regard in law, timely knowledge often means knowledge as fast as instantaneously possible. However, in some cases timeliness depends on business factors as well as legal constraints so that "timely" can mean "later." For instance in litigation, timeliness may bode for pushing off an expensive activity until some other event occurs which may render the activity unnecessary. Thus, prudence routinely calls for a timeliness proactivity filter (e.g., "If X is yes, then we intentionally and proactively do Y").

In addition to being proactive in client matter management, I am always developing and implementing better, new solutions, tools and processes crafted to achieve client objectives. In my practice, I have examined many complex litigation and transactional processes and all along been fascinated by the simple question "Is there a better way?" In many cases the answer to that question has been yes, and that answer has fueled development of new, game-changing processes and tools that (i) make complex information and processes more simple and understandable (for CAT members as well as clients), (ii) provide new solutions to complex problems, (iii) capture best practices and insights, (iv) enable efficient and complete knowledge development, (v) capture essential knowledge in an easily consumable form, and (vi) memorialize strategies and tactics for specific matters. Continual improvements mean these tools and processes have become extremely nuanced, valuable and confidence building.

One exemplary game-changing process and related tool I developed for prosecuting patents is our "**Advanced Idea Mining and Management**" (AIMM) process. It was crafted to procure extremely strong patent coverage. After many years of patent litigation, prosecution and counseling, I am crystal clear that it is often uncomfortable to be a patent litigation plaintiff. The main reason patent litigation plaintiff is a challenging role is that the two primary defenses to patent infringement (e.g., non-infringement and invalidity) are often strong. To this end and in most cases, patent applications and claims are drafted in a vacuum many years prior to occurrence of any possible infringement and with no real idea of which innovative aspects a competitor will choose to copy. For this reason in many cases when claims are infringed, the infringement is almost by accident, where the draftsman almost inadvertently included claim limitations that an infringer ultimately infringed. In most cases, patent claims are never infringed even when a competitor develops a competing product or service. In many cases, once issued patent claims are tested, the claims prove to be invalid in light of prior art or for some other reason.

Importantly, in most cases, claim infringement problems and validity problems could have been avoided if a draftsman was fully informed (e.g., understood what was going to be copied, understood prior art) when the patent and claims were drafted.

The AIMM process has evolved over many years in response to the relative weakness of most issued patents. The process significantly reduces the possibility that patent claims will not be infringed and significantly increases the chances that claims can weather invalidity attacks and therefore deals a direct blow to the two most successful infringement defenses available. The AIMM process includes more than 20 intentional patent preparation and prosecution tactics my CAT teams proactively implement during patent prosecution to set up winning litigation circumstances years before any infringement occurs and yields more claimed inventions, more claims, more infringement and more certainty.

I have developed many other game-changing tools and processes used in my litigation, transactional and counseling practices. The following includes a partial list of processes and tools I have crafted and implemented with my CATs to institutionalize activities and foster prudent proactivity.

- **"Fast Focus"** process - An intentional, multi-tactic, deep-dive, patent infringement case development process that enables CAT members to understand essential knowledge (see again 6 information types included in essential knowledge) as fast as possible (AFAP), to craft optimized strategies and related tactics, and to rapidly destabilize opposing counsel to tip the balance of power in our client's favor.
- **"Quick Kill"** process - An early litigation process that uses an instantaneously optimized essential knowledge set and proven tactics to adversely affect an opponent's litigation posture early in a patent infringement case and substantially increase the odds of early client favorable business outcomes. This tool is often used in conjunction with the Fast Focus process to rapidly destabilize opposing counsel.
- **"Informed Fee"** process - A fee and litigation process and related tools developed to (a) prepare rational, reasonable, and realistic litigation budgets, (b) generate digestible activity and budget timelines for internal matter management, and (c) generate simple and intuitive activity and budget timelines for clients which increase the level of understanding and ultimately build comfort with the entire litigation process and related fees and expenses. This process yields a comprehensive Informed Fee document set that brings clarity to the patent litigation spend which is often under-justified and therefore a source of client discontent.
- **"Case Console"** tool - A single document developed to distill and capture a limited set of "most important" litigation related circumstances for C-suite and in-house counsel reporting and reference. This is a dynamic document which changes as circumstances change, and therefore represents an up-to-date snapshot of essential knowledge, strategy and agreed upon tactics for the matter.
- **Champions** - I have been blessed with fantastic, ethical clients that are doing amazing and paradigm-shifting things in their industries. My clients positively affect millions of lives through employment, development of new and wonderful products and services for customers, providing salaries that form substantial tax bases, and developing thriving and exciting communities. For all of these reasons, it is easy, natural and in all cases tremendously rewarding to vociferously champion my client's business and other objectives.

I have developed a three step "**Objectives and Solutions Alignment**" (OSA) process designed to methodically align CAT efforts with client objectives and solutions.

- The first step in crafting solutions to achieve business objectives is understanding the objectives themselves, and we do this by asking two simple questions. A first question is "what do you want?" A second question is "why do you want it?"

The "what you want" question cuts through a lot of noise and forces a client to clearly frame a picture in their minds and mine of what a successful outcome looks like. The "why you want it" question causes a client to understand the real motivation behind the "what you want" answer. The "what-why" answers together provide a clear goal for legal and business solutions as well as the reasoning (e.g., the "why") justifying the goal.

- The second step is identifying one optimized legal solution. Identifying one optimized legal solution always starts with identifying a full set of legal solutions or options. Once all possible legal solutions are flushed out, we collaborate with our client to use client and matter DOSPs (e.g., dangers, opportunities, strengths and preferences) to select *one optimized legal solution* from the set.
- With an optimized legal solution in hand, the third step is identifying optimized *business* solutions. Identifying one optimized business solution starts with developing a full set of business solutions (e.g., typically some form of agreement, compromise, settlement, cross license, negotiated truce, etc.) which again are tested in light of our client's and matter DOSPs to select at least *one optimized business solution*. In cases where we pursue an optimized business solution, the optimized legal solution operates in the background as a "hammer" to be used in the event that the business solution is ineffective. In cases where there is no palatable initial business solution or where business solutions fail, the optimized legal solution is executed.

There are times when there are no legal or business solutions that will likely achieve a client's objectives (e.g., the "what you want" answer) and in that case, we collaborate with our client to understand the dangers involved in seeking the objective *or* in modifying the objective.

*Our clients always make the final decision on business objectives as well as legal and business solutions. With clear objectives and solutions defined, my CAT shifts into a championing role, laser focused on tactics crafted to achieve client objectives with client selected solutions. While healthy debate and discussion is encouraged during the OSA process, that stops once ultimate client objectives and solutions are selected, and my CAT aligns 100% behind the client to champion those solutions and achieve those objectives. Continuing CAT-client collaboration usually focuses on tactics, not foundational objectives and solutions, which rarely change during engagement.*

### To Summarize - Right Ideals Lead To Right Ideas

Tying it all together, my practice is a constant endeavor to prudently and proactively understand essential knowledge (e.g., see 6 types of essential knowledge listed above) related to client relationships and matters, to help my clients select optimized objectives, and to craft optimized solutions to achieve those objectives. I do this in great part by establishing CATs which include members that have unique abilities matched to specific CAT tasks and tactics. With the right CAT team in place, I am able to focus my unique abilities on achieving optimized legal and business outcomes for my clients.

---

## Substantive Experience

Most of my substantive experiences have been in intellectual property and specifically in litigation, patent prosecution, complex opinion drafting, strategic counselling and process development. Hereafter, I provide brief descriptions of my litigation, prosecution and opinion experiences.

### IP Litigation

While I started practicing law as a patent prosecutor almost 30 years ago, about 20 years ago I started working with several companies that had substantial patent clearance and other opinion needs. Since then, I have issued hundreds of complex clearance, validity, design around and other types of opinions. Having been deeply involved in many complex litigation matters, I now know that each opinion I drafted was akin to an expedited front end of patent litigation. Each issued opinion is like a short litigation process (e.g., typically 2-4 weeks) in which many patents have to be read and understood, claims have to be construed and the claims have to be either applied to some product or service to assess infringement or a set of patents or other publications have to be compared to one or more patent claim sets to assess claim validity. My opinion work was and continues to be the raw material for developing and refining a unique ability to rapidly develop thorough understandings of case DOSPs as well as optimized strategic trajectories and tactics for achieving client objectives.

In the last 15 years, I have been privileged to work on some outstanding IP litigation teams with great litigation partners and associates. As I became immersed in patent and other forms of IP litigation, I was fascinated by the litigation complexity, difficulty in measuring service and quality, as well as the discomfort many C-suite executives had with IP litigation. My natural curiosity drove me to begin exploring the litigation process in more detail with an eye toward processes and strategies ripe for improvement. In short, I was thinking about how we could expedite parts of the process, establish advantage over opponents, simplify the task of understanding the process and develop more rational and understandable ways of pricing to provide a new level of service and results that clients did not even know was possible.

Over time, I developed many different litigation related processes and tools including the (i) "Fast Focus" process, (ii) "Quick Kill" process, (iii) "Informed Fee" process, and (iv) "Case Console" tool described above. In addition, my patent prosecution "Advanced Idea Mining and Management" (AIMM) process (described above) is a litigation game-changer in many cases as the process routinely yields infringed and valid patent claims. I am currently working on an "Opponent Education" tool/process designed to get information to our litigation opponent's decision makers so that they can make informed decisions about their litigation position and possible business solutions.

Through the years, I developed unique abilities to employ each tool in litigation as well as other unique litigation capabilities. In particular, I routinely manage each of the Fast Focus, Informed Fee and Quick Kill processes for my CATs during the first few months of patent litigations, often resulting in early settlements favorable to my clients or an optimized trajectory for persisting litigations.

My capacity to quickly deep dive on patent litigation matters and develop rapid, thorough knowledge as well as develop and manage rational budgets in multiyear patent litigation has enabled me to develop another unique ability when it comes to patent litigation requests for proposals (RFPs). I routinely lead Quarles & Brady IP litigation RFP CATs with attorneys from all of our offices across the country, assembling members with unique abilities for specific opportunities, managing deep dives into case essential knowledge to understand case nuances, working up defenses and lines of attack, developing strategies as well as tactics, developing complete case budgets, developing internal client champions, and leading presentations.

## Patent Office Litigation

I have handled and managed many patent post-grant proceedings including inter partes reviews (IPRs), covered business methods (CBMs), and post grant reviews (PGRs). As in the case of conventional litigation, I specialize in front-end deep dives to develop a consummate level of understanding of all aspects of these office litigation activities and direct CATs in handling these proceedings. My Fast Focus and Quick Kill processes are instrumental in gaining an early upper hand in office litigation matters.

## Patent Prosecution

Anyone that practices any type of patent law for long, be it prosecution, litigation or counselling, quickly hears that prosecutors are better if they have some litigation experience and litigators are better if they have some prosecution experience. In theory, that seems to make sense as multiple perspectives often lead to new or more nuanced insights. I can assure you that in practice no truer words were ever spoken. For much of my career, I have been able to straddle the fence between patent prosecution and litigation and living in both worlds has enabled me to develop great insights into new and nuanced tactics, processes and techniques, as well as to identify and take advantage of new opportunities in the gray areas where litigation and prosecution overlap. My litigation and post grant Patent Office litigation experiences have made me keenly aware of the vulnerabilities of most issued patents and has forced me to re-examine and revamp my own patent prosecution tactics over time. My AIMM process and tool includes more than 20 intentional and generally unconventional patent drafting and prosecution steps or techniques applied to important or paradigm shifting patent applications to increase the likelihood of claim validity and infringement.

Substantively, I have prepared and prosecuted hundreds of domestic and foreign patent applications in a variety of technologies including:

- Semiconductor manufacturing and configurations
- LED and other lighting technologies
- Computer software, architecture, and networking
- Encoding and encryption systems
- Database systems and database management/compression algorithms
- Business processes in various disciplines
- Complex motor control
- Automated control systems
- Electronics/diagnostics testing systems
- Medical electronics and information systems
- Medical imaging systems/software/methods in various modalities, including NMR, PET, CT, X-ray, among others
- Medical therapy systems
- Agricultural equipment
- Lighting fixtures
- Vision/Surveillance systems
- Building/enterprise automation systems
- Navigational systems
- Audio equipment
- Battery technology
- Device/facility cooling systems/methods
- Bridge erection and bridge construction systems/methods
- Conveyor systems
- Automotive systems
- Special effects systems/methods
- Industrial shelving systems
- Electronic filtering methods/systems
- Consumer goods
- Brewing configurations/methods

## IP Asset Management Counseling, Tool Development, and Implementation

I have vast experience counseling clients in the development of technology and property rights related thereto under U.S. and foreign patent laws and the development and implementation of various IP asset management tools including:

- Business-oriented IP strategic plans including clear succinct business objectives and educational processes/tools to communicate the strategic plans, to client personnel having a need to know
- Ideation sessions for capturing existing IP and developing new IP
- Web-based automated disclosure processes/procedures
- Innovation-defining processes/procedures (AIMM process)
- Protection decision-making processes
- Automated web-based patent and trademark portfolio analysis/tracking tools
- Client IP mining tools used in due diligence endeavors
- Competitor IP analysis tools/services
- Web-based existing agreement/licensing tracking tools
- Web-based "Major IP Matters" archives
- Web-based client-specific "IP Portal"

## Rights in Data Counseling

I have experience in counseling clients with respect to obtaining/maintaining rights to access, collect, archive, sell, or otherwise use data/information for various purposes (Rights in Data generally) that are provided by, collected from, or developed for client customers in various industries. Data/information types include:

- Product and product configuration development, research, design, and manufacturing information/know-how
- Web-collected purchasing/accessing/activity information
- Web-solicited information
- Remotely collected information related to customer system operations (e.g., remotely collected building operating information)

## Cyber Counseling

I have deep experience counseling clients in all aspects of cyber-law, including:

- Privacy and related issues
- Copyright and related issues
- Trademark and domain name matters
- Digital signatures and electronic retention of records
- Jurisdiction matters
- Business methods
- Development and hosting agreements
- Terms, conditions, and disclaimers for site use
- Encryption
- Web posting
- Spamming
- Online contests

## Licensing

I counsel clients with respect to licensable assets, identifying potential licensees and negotiating license terms.

## IP Due Diligence Counseling

I counsel clients and providing succinct summaries regarding prudence of various types of contemplated relationships and negotiating positions based on:

- Business-oriented analysis of client's IP assets in relevant technology disciplines and how those assets relate to a potential business partner's products/services/IP assets
- Business-oriented analysis of potential business partner's products/services/IP assets and how those assets relate to client's business objectives

## Representative Patent & Technology Clients

Cree Inc., Steelcase Inc., Honda Inc., RIM Inc., Epic Systems, Tempus Inc., Ultratec Inc., Captel Inc., Rockwell International, Inc., General Electric, Cognex Corp., Wisconsin Alumni Research Foundation, JW Speaker, Inc., Tellaric, Inc., Jorgensen Conveyors, Inc., University of Michigan, Sigma Services, Inc., Bridge Technology, Inc., Versatile Products, Inc.

## Legal Services

- Intellectual Property Strategic Counseling
- Patent Prosecution
- Intellectual Property Litigation
- Patent Litigation
- Inter Partes Review Proceedings

## Education and Honors

- University of Wisconsin Law School (J.D., 1992)
  - Tau Beta Pi
  - Eta Kappa Nu
  - Phi Alpha Delta
- Marquette University (B.S.E.E., 1989)

## Bar Admissions

- Wisconsin

## Court Admissions

- U.S. District Court, Western District of Wisconsin
- U.S. District Court, Eastern District of Wisconsin
- U.S. District Court, Eastern District of Texas
- U.S. Court of Appeals, 7th Circuit
- U.S. Patent and Trademark Office

## Professional Recognition

- Listed in Chambers USA® (2008–present: Intellectual Property)
- Listed in The Best Lawyers in America® (2007–present: Litigation – Intellectual Property; Litigation – Patent; Patent Law)
- Named Best Lawyers' "2012 Milwaukee Patent Law Lawyer of the Year"
- Named Best Lawyers' "2011 Milwaukee Intellectual Property Lawyer of the Year"