



## Mark P. Kessler

Partner  
Chair, Intellectual Property section of The Tech Group  
Chair, IP Litigation Group

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Mark loves innovators but loathes patent trolls. He applies that passion to bringing much-needed critical strategic guidance to tech-based companies. Mark devotes his practice to clients engaged in creating businesses, launching new products, and conducting M&A and venture capital transactions.

Mark's admiration for innovators was sparked during his years as a client of several law firms, including Lowenstein Sandler. He served as Chief IP, Technology & Sourcing Lawyer globally for JPMorgan Chase, a job he liked, but not as much as he likes working with startups and growth companies. During Mark's eight years at JPMC, he settled multibillion-dollar patent litigation against trolls, handled multibillion-dollar outsourcing agreements, oversaw the merging of J.P. Morgan's intellectual property portfolio with Chase Bank's, and presided over the firm's growing and ambitious patent portfolio.

During his tenure at JPMC, as finance and technology evolved, Mark helped develop a legislative agenda for IP issues involving the financial services industry. His testimony before Congress has influenced a number of patent laws enacted since 1999. In 2005, Mark realized that his greatest professional satisfaction came from serving as IP strategist for the tech companies created at Lab Morgan, JPMorgan Chase's incubator (several of which had successfully gone public). Early in his career, he co-counseled with his friends at Lowenstein Sandler on an emerging tech company, Dialogic. Lowenstein Sandler ultimately represented the company in an IPO and then an \$800 million sale to Intel. When Mark decided to return to a steady diet of tech startups, he spoke with only one law firm...and Lowenstein became his new home.

As chair of the firm's IP Group, Mark is heavily involved in issues relating to software, digital and social media, big data, fintech, open source, virtualization/cloud, blockchain, SaaS, enterprise, and hardware (including medical-related hardware). He continues to manage and assess a wide range of process, software, and business method patents, and he provides strategic advice on issues ranging from litigation assessment to patent scope, open source, trademarks, privacy, and ownership risks.

An electrical engineer by training, Mark started his career at a shoe factory in New Hampshire, his home state, performing a series of jobs that subsequently moved offshore, underscoring the need for America to innovate.

Mark leads several groups focused on startups. He is co-founder and program chair of **VentureCrushFG**, which provides a formal mentoring program and peer group for high-potential tech entrepreneurs (read about it in the **WSJ Accelerators here**). He also co-founded **GrapeArborVC**, an angel investor team composed of friends who pool their personal finances and expertise to back promising tech startups. He is program chair of **VentureCrushAV**, a New York City group of founders, tech industry angels, venture capitalists, and senior executives with an interest in funding and supporting early-stage ventures.

Mark is strongly committed to equality for the LGBTQ community. He is Chair of the firm's LGBTQ Alliance, a vibrant, fast-growing group that advocates on behalf of the LGBTQ community both at the firm and externally. He is also Chair of the firm's Operating Committee.

Outside the office, Mark bikes as much as he can. He enjoys hiking, snowshoeing, jumping in lakes, and cooking with his family. He serves on the board of directors of Camp Belknap, a YMCA-affiliated summer camp in New Hampshire, where he was both a camper and a counselor (and sometimes wishes he still could be), and he serves as a trustee of his alma mater, the School of Engineering at Tufts University. Go Jumbos!

## HONORS & AWARDS

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- > **IAM Global Leader (2020)**  
Recognizing experience relating to creating, protecting, managing, transacting, and enforcing critical patent rights as well as ability to innovate and inspire in delivering for clients
- > **IAM Patent 1000: The World's Leading Patent Practitioners (2013, 2018-2020)**  
Recognized among leading patent practitioners
- > **Chambers USA: America's Leading Lawyers for Business (2006-2013)**  
Recognized as a leading intellectual property lawyer
- > **IP Law & Business Magazine (2008)**  
Named among the nation's top 50 IP lawyers under age 45 for work on behalf of venture-backed companies

# NEWS & INSIGHTS

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## Publications

- > June 15, 2021  
**"Supreme Court Grants Certiorari in Web Scraping Case hiQ v. LinkedIn,"** *The Tech Group and White Collar Criminal Defense Client Alert*  
Mark P. Kessler, Kathleen A. McGee, Bryan Sterba
- > June 7, 2021  
**"SCOTUS Decision Significantly Impacts Data Operations for U.S. Businesses,"** *The Tech Group and White Collar Criminal Defense Client Alert*  
Mark P. Kessler, Kathleen A. McGee, Raymond Cooper
- > April 2, 2020  
**"The U.S. Patent and Trademark Office Response to COVID-19,"** *Intellectual Property Client Alert*  
Vanessa A. Ignacio, Mark P. Kessler, David Toma, Matthew P. Hintz
- > February 28, 2020  
**"Source Code Escrow Agreements Are Reaching For The Cloud,"** *Law360*  
Mark P. Kessler, Leah Satlin
- > November 4, 2019  
**"How to Avoid Common IP Mistakes Made by Early-Stage Companies—Part 4: CCPA and Its Interplay With GDPR,"** *Lowenstein Sandler LLP*  
Mark P. Kessler, Diane Moss
- > July 1, 2019  
**"How to Avoid Common IP Mistakes Made by Early-Stage Companies—Part 3: Patents,"** *Lowenstein Sandler LLP*  
Mark P. Kessler, David Toma
- > May 6, 2019  
**"How to Avoid Common IP Mistakes Made by Early-Stage Companies—Part 2: Copyrights, Open Source Software, and Trade Secrets,"** *Lowenstein Sandler LLP*  
Mark P. Kessler, Bryan Sterba
- > April 2, 2019  
**"How to Avoid Common IP Mistakes Made by Early-Stage Companies—Part 1: Trademarks,"** *Lowenstein Sandler LLP*  
Mark P. Kessler, Matthew P. Hintz
- > March 22, 2019  
**"Protecting Software in the Face of an Ever-Changing Workforce,"** *Today's General Counsel*  
Mark P. Kessler
- > September 12, 2016  
**"Open Source Software a Core Competency for Effective Tech M&A,"** *IP Watch*  
Mark P. Kessler,

## In the Media

- > August 24; August 25; August 27, 2020  
**Crunchbase News, Precision Oncology News, Pulse 2.0,** and the **Global Legal Chronicle** report on the \$118 million Series B funding for Lowenstein client **MURAL**, the leading digital workspace for visual thinking and remote collaboration. The Lowenstein deal team included **Ed Zimmerman, Alex D. Leibowitz, Serena Ward, Brian A. Silikovitz, Darren Goodman, Mark P. Kessler,** and **Carly S. Penner.** *View Lowenstein's news announcement about this transaction.*
- > November 11; November 14, 2019  
Lowenstein Sandler's representation of **ZMC** in its investment in **CommentSold, Inc.** is noted in **The PE Hub Network, Business Wire, Financial News,** and the **Global Legal Chronicle.** The Lowenstein team included **Steven E. Siesser, Lesley P. Adamo, Elisia M. Klinka, Darren Goodman, Julie Levinson Werner, Anita L. Chapdelaine, Nicole Rae Morales, Nicole Stefanelli, Megan Monson, Eric Jesse, Sophia Mokotoff, Carly S. Penner, Bryan Sterba, Manali Joglekar, Mark P. Kessler, Daniel A. Suckerman, Kimberly E. Lomot,** and **Doreen M. Edelman.** *View Lowenstein's news announcement about this transaction.*
- > March 14, 2019  
Lowenstein's having received top rankings in several categories in the **Patexia 2019 Patent Prosecution Intelligence Report** is highlighted in the Commerce and Industry Association of New Jersey's (CIANJ) **Business Beat** newsletter.
- > January 7, 2019  
Lowenstein Sandler is noted as lead counsel to Vesey Street Capital Partners, LLC (VSCP) in their recapitalization of Elite Body Sculpture as published in **The PE Hub Network, Cision PR Newswire,** and **The Business Journals** (Lowenstein deal team: **Marc B. Kramer, Brooke A. Gillar, Steven E. Siesser, Lowell A. Citron, Michael Walutes, Lesley P. Adamo, Eileen Overbaugh, Elisia M. Klinka, Nicholas Gonski, Darren Goodman, Megan Monson, Eric Jesse, Alanna Sandoval, Jeffrey M. Shapiro, Jack Sidorov, Mark P. Kessler, Paul M. Krueger, Michael A. Buxbaum, Norman W. Spindel, Mary J. Hildebrand, Bryan Sterba, Manali Joglekar,** and **Stuart S. Yusem.**)
- > November 5-12; December 13-19, 2018  
**MarketWatch, GlobeNewswire, TenLinks, StreetInsider.com, Yahoo! Finance, Digital Engineering, Global Legal Chronicle,** and **Crain's Detroit Business** note Lowenstein Sandler

as counsel to Altair Engineering Inc. (Nasdaq: ALTR) in its \$176 million acquisition of Datawatch Corporation (Nasdaq: DWCH). (Lowenstein deal team: **Peter H. Ehrenberg, Michael J. Mueller, Elizabeth A. Mandle, Justin Gindi, Colin J. Kirby, Valeska Pederson Hintz, Kate Basmagian, Lauren E. Killeen, Darren Goodman, Megan Monson, Brian A. Silikovitz, Sophia Mokotoff, Mark P. Kessler, Manali Joglekar, Leah Satlin, Jeffrey Blumenfeld, Jack Sidorov, Jeffrey M. Shapiro, Lynda A. Bennett, Eric Jesse, Lowell A. Citron, Lauren M. Troeller, and Erica Perlmutter.**) [View Lowenstein's news announcement about this transaction.](#)

> June 22, 2018

**Bloomberg Law – Big Law Business** cites **Mark P. Kessler** and his team members for tying in third place at the **Diversity in Law Hackathon** at Harvard Law School on June 22, 2018. Kessler's team proposed In.C—short for “inclusive culture”—which aims to help employers track and measure employee feedback on diversity and inclusion factors such as a sense of belonging and shared trust. Used broadly enough, organizations can cite their In.C score to demonstrate to clients, customers, competitors, and the public that they are serious about diversity and inclusion.

> June 11-12, 2018

**American Banker** and **PYMNTS.com** quote **Mark P. Kessler** in an article discussing USAA's patent infringement lawsuit against Wells Fargo. In both articles, Kessler notes that this is likely the first time one bank has sued another for patent infringement. In **American Banker**, he indicates that the suit may pressure other banks to reach a quicker resolution with USAA. (*subscription required to access American Banker*)

> March 9, 2018

**Law360** quotes **Mark P. Kessler** on obviousness as a barrier to patentability in an article exploring hurdles to securing patents related to distributed ledger technology and blockchain.

> August 2017

**Mark P. Kessler** comments in **Technology Transfer Tactics'** monthly newsletter on the various approaches TTOs may consider for managing patent annuity.

## SPEAKING ENGAGEMENTS

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> Speaker, **2019 TechGC National Summit**, TechGC, New York, NY, October 24-25, 2019

> **VentureCrushSF**, Lowenstein Sandler Tech Group, San Francisco, CA, April 26, 2018

## EDUCATION

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> Case Western Reserve University School of Law (J.D. 1989)

> Tufts University (B.S.E.E. 1986), Electrical Engineering

## ADMISSIONS

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> New York

> New Jersey

> United States Patent and Trademark Office