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Litigators of the Week: What Trade Secrets? Latham Trial Team Fends Off $260M Claim From Alcoa for UAC

By Ross Todd
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Let's just say that before **Tony Sammi** signed on to represent Universal Alloy Corporation in its trade secrets row with Alcoa, things were not going so hot for UAC.

UAC competes with Alcoa to provide Boeing with long aluminum-alloy structures called stretch-formed spar chords used to make airplane wings. When Sammi took on the case a few years ago, UAC was looking at sanctions that would eventually bar the company from raising any reverse-engineering defenses at trial.

Let's fast forward to that trial, where Alcoa was seeking $260 million in damages.

After two weeks of trial and just a couple of hours of deliberations, federal jurors in Atlanta last week sided with UAC on the question of whether Alcoa even owned any of the claimed trade secrets, handing a huge win to Sammi, counsel **Rachel Blitzer** and their team at **Latham & Watkins**, who worked alongside co-counsel from their former colleagues at Skadden, Arps, Slate, Meagher & Flom.

Lit Daily: What was at stake here for Universal Alloy Corporation here?

Tony Sammi: Much more than the requested damages—which were already staggering, at more than $260 million. But this lawsuit brought into question Universal Alloy Corporation's integrity and its capabilities. The aerospace hard alloy aluminum manufacturing industry is a narrow one, with only a handful of significant players. If you look up at a plane flying overhead, it's a safe bet that there's a UAC part (if not hundreds of UAC parts) on board. UAC's business model is built on its stellar reputation, which it earned in the 1990s and 2000s by matching and outperforming the product offerings and customer service of Alcoa and other long-established players. This lawsuit threatened

Courtesy photos

P. Anthony Sammi, left, and Rachel Renee Blitzer, right, of Latham & Watkins.

to undermine all of that great work and stain an otherwise unimpeachable reputation.

How did this case come to you? And what was the state of play when you signed on?

Sammi: UAC had engaged counsel that litigated the case through summary judgment motions. But around 2019, UAC's European parent company, Montana Tech Components, reached out to me to review and analyze the case, and shortly thereafter asked me to take lead. The case had its share of challenges. There were numerous discovery-related rulings and sanctions against UAC. Most significantly, the court had found that UAC had failed to disclose facts that supported a reverse engineering defense—resulting in reverse engineering being completely excluded as a defense. But I welcome a challenge, and my team and I approached UAC's case with a fresh perspective, ready to move beyond the setbacks we walked into. When I joined Latham in 2021, we built out our team further with members of Latham's incredibly talented IP group, and with that, we got it trial-ready.

Who was on the team and how did you divide the work, both in the run-up to the trial and at the trial itself?

Rachel Blitzer: We took over this case when Tony and I were still at Skadden, and the original members of that case team, our colleagues and friends of years, Doug Nemec and Leslie Demers, remained on the team through trial. There was constant collaboration, without ego, always working to make each other better in the best interest of our client and our case. Of course, all that collaboration wouldn't have gotten us very far without an extraordinary team of associates: from Latham, **Diane Ghrist**, **Melanie Grindle**, **Adam Herrera**, **Aaron Macris** and **Ramya Vallabhaneni**; and from Skadden, **Ryan Bisaillon**. And absolutely critical to our success was our tireless paralegal and support staff team, led by **John Cremer**.

As for splitting up the work, our years (decades!) of working together made for a natural division of labor. From the start, Tony had a vision for case themes that would resonate with a jury and form the foundation for our case presentation. He and I worked closely with each other and with our associate team to make sure those themes came through not only in opening and closing, but in every witness direct and cross, regardless of the subject matter that witness addressed. Doug and Leslie focused, among other things, on legal filings before and during trial and expert witness presentation. We divided witness examinations, and, most crucially, we put our heads together before and after each trial day to make sure we were delivering the absolute best defense possible for UAC. As Tony repeatedly reinforced to the team during trial, every seemingly small decision presented a strategic fork in the road, and if we got each of them right, we'd wind up in the place we wanted to be.

How many trade secrets were we talking about here? And what did they purport to cover?

Sammi: After a decade of litigation and two and half weeks of trial, your guess is as good as mine. And I told the jury as much in closing: "For two and a half weeks I've been trying to pin down what are the trade secrets in this case, and every time I do the ground shifts beneath me. They move and they change shape . . . whatever they are, every single one fails under the law." Alcoa never enumerated how many alleged trade secrets it was asserting, even when I directly asked their expert this question on cross-examination. Instead, their expert suggested at one point that there could be millions of combinations at issue. As to what those trade secrets purportedly covered, Alcoa claimed it owned trade secrets relating to the entire process for manufacturing stretch-formed spar chords, aluminum alloy structures that form a plane's wings. Alcoa divided that process into seven steps in its trial presentation: beginning with the casting of aluminum alloy ingots and ending with aging the metal parts to strengthen them. But, UAC had been performing those steps

for decades prior to this lawsuit. The only step of the process unique to stretch-formed spar chords is the use of an enormous, expensive machine capable of imparting the force needed to bend (or, "form") spar chords into the shape required by Boeing. And while UAC's acquisition of such a machine occasioned this entire lawsuit, when we drilled down hard, even Alcoa conceded that there were no trade secrets to be found there.

I gather that you set out to tell a story at trial about UAC's experience in the industry and why the company was well-positioned to make these parts for Boeing without Alcoa's input. How did you try to make that case while also showing that the relationship between Alcoa and Boeing was on the decline, opening the door for more business to go your client's way?

Sammi: I've always believed that the finest legal and technical arguments mean little if you can't communicate them in a cogent, lucid and persuasive story. We are, after all, humans who want to understand and care about the things we decide upon. We harmonized the two Boeing storylines with all roads leading to UAC. Offering two explanations for the transfer of Boeing business from Alcoa to UAC—one pro-UAC and one anti-Alcoa—gave the jury a complete, real-world picture of business realities. We didn't describe abstract commercial engagements, we brought to life two real relationships, one built on trust and hard work and the other deteriorating through neglect. We weaved both of those points into every part of the case—my opening statement, our cross examinations, and our direct examinations. There was ample evidence concerning both UAC's experience and Alcoa's relationship with Boeing and one of our most helpful tools was a detailed timeline that we had printed on a huge foam board. On it, we showed both historical milestones marking UAC's progress in the industry, contrasted with events relevant to the deteriorating Boeing-Alcoa relationship. I introduced the timeline during my opening statement, and it became the touchstone of our case—we used it for context during multiple witness examinations, including cross-examinations of Alcoa witnesses. I am a strong proponent of providing a jury with recurring visuals throughout a case. These visuals retell your story for you every time they are presented to the jury. Even the physical space they take up in the courtroom works in your favor—even when they're facing backwards resting against the wall, the jury is cognizant of them, and they know what's coming when you start walking over to retrieve them.

Tell me about your approach to putting on your case-in-chief. How did you avoid leaving fodder for cross-examination of your witnesses by Alcoa's team?

Sammi: I knew without a doubt that the only way to win this case was to run at the evidence, not away from it. While I have never wavered in my conviction that UAC did not misappropriate trade secrets, every case has challenging facts—or at least, facts that look challenging. We systematically took each one of those facts, put it on the wall, and took it apart. I laid down the marker in my opening, and then stayed true to that approach with each UAC witness. If Alcoa perceived that it had information to use against a given UAC witness, we hit that evidence head-on in direct and used it to our advantage. Maybe we even asked our witnesses about issues Alcoa would not have raised—and if so, I don't regret it. Not only did we confront the landmines that might have hurt us in cross, but we showed UAC's humanity in the process, and I firmly believe that resonated with the jury. What's more, in response to our strategy on direct examination, Alcoa declined to substantively cross-examine many of those witnesses. We simply didn't leave them any points to score.

The jury sided with you on its first question—whether or not Alcoa owned the claimed trade secrets. I know you had a number of lines of defense. How much of your time and energy did you put into that one?

Blitzer: The structure of the verdict form was not settled until after we rested our case—with Alcoa originally seeking to collapse the series of questions on the various elements of trade secret misappropriation into a single question: "Did UAC violate the Georgia Trade Secrets Act by misappropriating Alcoa trade secrets?" In the end, the parties agreed to verdict form questions that track the law—but with that in limbo until the end of trial, as a practical matter, we didn't have the luxury of focusing on any specific verdict form question. But that had little effect on our case strategy. In a case as complex as this one, even if we had a finalized verdict form, you can never be sure which issues the jury will latch onto. We were fortunate to have strong defenses on every element of the accused trade secret misappropriation, and we intentionally presented them holistically.

What can companies who find themselves in the position of your client—particularly ones facing pretty significant sanctions in litigation—take from UAC's experience here?

Blitzer: First, where there are sanctions or other problematic rulings, make sure you explore the true limits of that decision. There are often ways to recapture what was lost through a different approach that gets creative with what remains. If documents or facts were excluded, tease what you can out of the allowable factual record. If an argument was excluded, repurpose the underlying facts in support of a permissible argument. But bigger picture: necessity truly is the mother of invention. A little adversity isn't such a bad thing going into trial (though you'll likely never hear me say that in the moment). The handicap of a sanction or other limitation forces the trial team to get inventive and to focus on the fundamental elements of the case you want to try—which is what every trial team should be doing, sanction or no sanction. And an uphill battle for you often has the effect of making your opponent overconfident, which can be more damaging than any sanction.

What will you remember most about this matter?

Sammi: Those of us who practice trade secret law know how rare a complete and almost immediate defense jury verdict is in a $300 million complex trade secret trial. Securing that win for UAC is a career highlight for me. It's difficult to describe what our team accomplished with anything approaching accuracy or justice. But I leave the case knowing with even more certainty than when I entered it that the talent in Latham's IP group is boundless. We accomplished this win not because of our legal positions and not because of our strategic moves, but because both of those things were at all times viewed through the lens of human emotion. I'll always remember the night before our closing, with our entire team preparing, sitting elbow-to-elbow, paper everywhere, the exhaustion, the electricity, the stakes. To me, that night, and this case, is summed up by the last thing I said to the jury: "This is where we seek truth to find justice. When you see it, when you hear it, when you feel it, hold on to it. We've put our foot in the ground and we say: this far; no farther."

Blitzer: There is no win more gratifying than prevailing on behalf of a client who was wrongly accused. Though we were defendants, we approached this case offensively, and presented a case based not on Alcoa's failures of proof, but on UAC's own story of hard work, resourcefulness, and persistence. Developing that story naturally required a close working relationship with many of UAC's employees. That work was a joy. The team at UAC exemplifies the very best of American industry and work ethic, and we were very proud to tell their story. I will never forget the feeling of sitting next to our client's CEO, after a decade of grueling litigation, as we heard the jury deliver its verdict and realized together that justice was done.