

Daily Journal

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TOP INTELLECTUAL PROPERTY ATTORNEYS OF 2014

The most fascinating, and challenging, aspect of naming the intellectual property attorneys in California is the extraordinary variety of their achievements. While they share the same practice area, the lawyers — chosen from hundreds of nominations, along with a few staff selections — range from patent specialists who try cases before the U.S. International Trade Commission to Internet experts who fight the creators of malicious software “botnets.”

To qualify for the list, an attorney must be based in California even if much of his or her work is done elsewhere, whether it’s the ITC in Washington D.C., the patent office in Virginia, or district courts in Delaware, Texas and other states. Their focus must be intellectual property, as opposed to general litigators who often handle such work.

The attorneys chosen for the list have helped to advance technological innovation and change the law during the past year, handling work critical to the future of the entertainment, medical and technology industries.

It’s an increasingly difficult group to choose, but the impressive and diverse array of talent from across California is testimony to the state’s leadership in intellectual property law.

—The Editors

TOP LITIGATORS OF INTELLECTUAL PROPERTY

DOUGLAS E. LUMISH

FIRM:

LATHAM & WATKINS LLP

CITY

MENLO PARK

SPECIALTY

PATENT

Last year, Lumish scored a victory for client TransPerfect Global Inc. in a multipatent infringement case.

The lengthy litigation pitted two competitors in a battle over website translation technology, with each side tossing infringement claims against the other.

MotionPoint Corp. had sought an injunction against TransPerfect, alleging that the company had infringed on its patents. *TransPerfect Global Inc., et al., v. MotionPoint Corp.*, CV10-2590 (N.D. Cal., filed June 11, 2010).

In July 2013, a jury found that three MotionPoint patents were invalid and not infringed by TransPerfect. Jurors further found that MotionPoint had infringed a valid TransPerfect patent and was liable for damages of more than \$1 million.

“The jury is the most challenging part

of a case like this,” Lumish said. “You have to find a way to communicate to the jury a storyline behind the case.”

But, he added, patent attorneys tend to get bogged down in the arcane nature of the technology, and forget about the human elements.

“You have to go back and think about it from a ‘right and wrong’ mentality, and why your clients are right,” Lumish said. “You can’t get caught up in talking about source code and circuit diagrams and forget to tell them about your clients as people and how they developed this technology.”

In this case, “It was unique because we had the senior executive staff of TransPerfect testify at trial,” Lumish said. “The jury got to meet the core decision-making people inside of the company. Having them talk to the jury, who is able to assess their credibility, is really powerful.”



Currently, there are pending post-trial motions before the trial judge by MotionPoint, while TransPerfect is asking for, among other things, enhanced and supplemental damages.

Once those motions are decided, the case will head to the U.S. Court of Appeals for the Federal Circuit.

— Pat Broderick