

Technology Group Of The Year: Latham & Watkins

By **Steven Trader**

Law360 (February 5, 2018, 3:42 PM EST) -- The multifaceted strengths of Latham & Watkins LLP's technology attorneys were on full display last year, as the firm helped Arista overcome a contentious intellectual property dispute and guided a blockbuster acquisition for Broadcom, earning its place among Law360's Practice Groups of the Year.

In a year filled with high-stakes activity on behalf of world-leading technology creators like Oracle Corp. and Microsoft Corp., as well as emerging developers, perhaps none was bigger for Latham than defending cloud networking technology inventor Arista Networks Inc. against infringement claims by Cisco Systems before the U.S. International Trade Commission.

Before Latham's attorneys stepped into the case, the ITC previously found that Arista had infringed two of Cisco's network switch patents and ordered a block on imports of the copied components.

Partner Douglas Lumish, who represented Arista, said that while the ITC cease-and-desist was certainly a setback, it also gave Arista a glimpse into the commission's interpretation of the patents at issue and provided a sort of road map for how the company might redesign the infringing switch technology to overcome the import block.

"Any IP litigation, whether it's in the district court or the ITC, you're often thinking about redesign as a possible strategy," Lumish said. "With redesign, you're creating the facts, you're building a system with the intent of making sure it's outside of the patent. You know that, all right, the old system is one that the ITC is going to find violates, but now you kind of set your own destiny."

The strategy paid off in June, when an ITC administrative law judge determined that Arista's sale of the redesigned network switch products complied with the terms of the cease-and-desist order. The ruling helped Arista avoid both a \$600 million penalty and billions of dollars in lost sales.

The Arista case wasn't the only high-stakes dispute Latham emerged victorious from in 2017, as the firm's tech team last February also helped Oracle survive a number of defenses put forward by Hewlett-Packard after Oracle accused it of distributing copyrighted software code. A few months prior, Latham had also stepped in and helped Oracle obtain U.S. merger clearance for its \$9.3 billion acquisition of NetSuite Inc.



In fact, Latham's team helped a number of technology giants pull off acquisitions, including Siemens' \$4.5 billion buy of Oregon-based Mentor Graphics Corp., which helped bolster its industrial software platform. Latham also guided Microsoft's \$26.2 billion acquisition of LinkedIn through European Union clearance proceedings in late 2016.

But the big Latham-led M&A deal that grabbed headlines this past year was networking solutions provider Broadcom Ltd.'s \$5.9 billion acquisition of Brocade Communication Systems Inc., a move that Latham technology practice co-chair Ben Potter said poises Broadcom to become the largest semiconductor company in the world.

In the capital markets realm, Latham advised Germany-based global hotel search platform Trivago on its December 2016 initial public offering, which ended up the largest U.S. listing by a European technology issuer since 2013. The firm also steered data center company Switch Inc.'s \$531 million IPO in 2017, the second-largest technology IPO last year.

"Year-to-year we're always at the top of the league charts around M&A and capital markets for technology, and we had a banner years in those categories again," Potter said. "I'm not sure I could ask for anything more than that out of the firm."

From intellectual property cases to mergers and acquisitions work, privacy disputes to initial public offerings, the highly sophisticated technology team at Latham does a little bit of everything — an approach that evolves regularly in response to the demands its high-tech clients face and changes in the marketplace, according to Potter.

"Latham's a unique firm because we built a platform that combines a powerful global platform with expertise typically held by a tech boutique," Potter said. "So we're of the mindset that there's no other global law firm that has our depth of technology expertise and no other firm out there with our footprint."

With such a variety of technology focuses, Latham takes the approach of assisting its clients in a unique and specific way, much like a smaller boutique would. For example, Potter generally helps steer an emerging company on day-to-day matters, but if the company has an IP issue crop up, then someone like Lumish will step in and offer his specific expertise, and so on as the company continues to grow.

"I do think we are uniquely positioned within the tech industry to deliver extraordinary values," Potter said. "We're bringing an unparalleled range of practice areas and bench strength into an industry that is typically served by a group of players with a less broad or a more focused and targeted range of expertise."

"You don't come to Latham if you want to be a lone wolf doing your own thing — that's not the right firm for you," Lumish added. "This is a place that's been built upon a culture of collaboration, and it continues to do that and I think always will."

--Editing by Catherine Sum.