

Alcoa Loses \$200M Trade Secrets Case Against Rival At Trial

By **Rosie Manins**

Law360, Atlanta (July 26, 2023, 6:55 PM EDT) -- Alcoa doesn't own the alleged trade secrets for aircraft wing parts that it claims a Georgia rival stole in order to secure a \$200 million contract with Boeing, a federal jury in Atlanta decided Wednesday after a two-week trial.

The eight jurors only answered the first of eight questions on the verdict form, immediately finding in favor of defendant Universal Alloy Corp., a manufacturer based in Canton, Georgia. The jury foreperson read aloud the verdict just before 4 p.m., following several hours of deliberations.

Alcoa Inc. successor Howmet Aerospace Inc. and Arconic Corp., collectively referred to in the case as Alcoa, claimed it had developed over 25 years the properties for "stretch-form spar chords" that only it was able to produce for Boeing until UAC stole the information and diverted a large chunk of its business.

Spar chords are pieces of contoured aluminum ranging from about 65 to 110 feet in length that are used primarily to construct airplane wings.

UAC has antitrust counterclaims of monopolization pending against Alcoa, which were not part of the trial. Those counterclaims will be litigated next in the case, which is before U.S. District Judge J.P. Boulee in the Northern District of Georgia.

"We thank the jury for their time and careful consideration of the facts," UAC's lead counsel, Tony Sammi of Latham & Watkins LLP, told Law360. "They reached the right verdict. And we are grateful they came to this conclusion."

Alcoa and UAC have been litigating the matter since 2014, initially in Indiana and since 2015 in Georgia.

Judge Boulee told counsel for the parties they had been "models of professionalism and competence" during the trial, which began on July 11.

UAC allegedly hired former Alcoa staff as part of its misappropriation of Alcoa's trade secrets, so it could be a secondary supplier of stretch-form spar chords for Boeing.

In his closing argument, Sammi told the jurors that he still couldn't identify the alleged trade secrets. He said Alcoa kept changing its mind as contradictory evidence was presented.

"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," Sammi told the jurors. "They move and they change shape. Is it 10 million trade secrets? One? Seven? Whatever they are, every single one fails under the law."

Alcoa brought its case under the Georgia Trade Secrets Act, which has a five-year statute of limitations. UAC contended that Alcoa wasn't concerned enough about UAC as a competitor in 2005 to bring its claims, and therefore its case was time-barred.

Alcoa, based in Pittsburgh, claimed it didn't know the extent of UAC's misappropriation until late 2014, when it learned Boeing was redirecting \$200 million in spar chord sales to UAC. Alcoa told the jurors during trial that its damages were more than \$88 million, reflecting lost profits and UAC's unjust enrichment.

UAC countered that it had been making spar chords since 2007 using a generic alloy composition in existence for decades, and that Alcoa's high prices and poor manufacturing drove Boeing to seek a second supplier.

Boeing purportedly offered to help UAC buy a \$10 million machine to make stretch-form spar chords. UAC got the machine in May 2015, facing a January 2016 deadline to produce the parts.

Sammi told the jurors that UAC's machine is different from Alcoa's, as are the specifications UAC uses to make its stretch-form spar chords. He said UAC turned over to Alcoa almost 500,000 pages of research and development dating back to 2004, proving UAC hadn't relied on Alcoa's numbers.

Alcoa had failed to protect the information it deemed confidential until two weeks before suing UAC, when it stamped 20-year-old documents as proprietary, Sammi said.

Alcoa's lead attorney, Courtland Reichman of Reichman Jorgensen Lehman & Feldberg LLP, said in his closing argument that UAC couldn't have achieved in a matter of months what it took Alcoa years to figure out, unless UAC had Alcoa's confidential information. He said UAC's files were full of Alcoa trade secrets.

"It took 25 years to pull this process together through painstaking trial and error," Reichman told the jurors. "There's no evidence that any of the different steps could be figured out."

Reichman said a \$200 million contract with Boeing was a powerful motive for UAC to cheat after it had repeatedly failed to produce the required stretch-form spar chords on its own. He said UAC lied about its theft by trying to pass off Alcoa's trade secrets as information received from Boeing, which is not a party in the case.

"The means, motive and opportunity speak volumes about what actually happened here," Reichman said. "UAC was moving in the wrong direction until they used Alcoa's numbers. They got Alcoa's numbers and wham, they hit the bullseye."

UAC produced "a whole lot of nothing" to show independent development, Reichman said. He said the fact that UAC ended up with slightly different processes than Alcoa doesn't mean UAC didn't misappropriate Alcoa's trade secrets to start with.

"It's theft on a grand scale," Reichman said. "They were caught red-handed."

Alcoa Inc. became Arconic Inc. in 2016. At that time, Arconic spun off Alcoa Corp. as an independent publicly-traded company. Alcoa Corp. is not a party to the case.

Alcoa did not immediately comment on the verdict Wednesday.

Alcoa is represented by Courtland Reichman, Sarah Jorgensen, Christine Lehman, Ariane Mann, Jennifer Estremera, Leaf Williams, Sara Edelstein, Laura Carwile, Gina Diaz, Caroline Walters and Michael Matulewicz-Crowley of Reichman Jorgensen Lehman & Feldberg LLP.

UAC is represented by Tony Sammi, Rachel Blitzer, Diane Ghrist, Melanie Grindle, Adam Herrera, Aaron Macris and Ramya Vallabhaneni of Latham & Watkins LLP, Douglas Nemec, Leslie Demers and Ryan Bisailon of Skadden Arps Slate Meagher & Flom LLP, and Michael Sullivan of Womble Bond Dickinson.

The case is Arconic Inc. et al. v. Universal Alloy Corp., case number 1:15-cv-01466, in the U.S. District Court for the Northern District of Georgia.

--Editing by Alex Hubbard.