



# TOP TRADE SECRETS LAWYERS 2022



## DOUGLAS E. LUMISH

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TRADE SECRETS & PATENT LITIGATION**

“With a trade secrets claim, you may not know for months or longer what even you’re being accused of having taken as a defendant,” Lumish said. “So that is both an incredible challenge for a defendant and an opportunity for plaintiffs’ lawyers, who can bring amorphous claims and shape-shift them as the case moves on to match where they think the evidence is coming out.”

He is defending Skyrise, Inc., which makes an AI-powered avionics system for pilots, against claims it and two engineers formerly with Moog Inc. stole Moog’s trade secrets. “We are seven or eight months into the lawsuit, and there has been no disclosure of what the trade secrets are yet,” he said. *Moog Inc. v. Skyrise, Inc.*, 1:22-cv-00187 (W.D. N.Y., filed March 7, 2022).

He won’t publicly discuss another important case. He is defending Facebook and parent Meta against claims it and an engineer put another company’s artificial intelligence secrets out on an open-source website. The case is in

the midst of intense motion practice. *Neural Magic Inc. v. Facebook, Inc.*, 1:20-cv-10444, (D. Mass., filed March 4, 2020).

Lumish recently resolved through arbitration a case about trade secrets for power steering and brake calipers. The case began in Texas state court in 2014.

“That’s one of the things I’ve always loved about my job,” he said. “One day I’m talking about incredibly advanced mathematics that are a very difficult struggle to get my brain around. ... And then the next day [I’m] talking about brake calipers,” which are far less esoteric. “We can ... hand them around [to jurors] and point out the parts that matter.”

Though he concedes he didn’t know much about brake calipers, either. “Going into the case, I had to learn about those. That’s always been my favorite part of my job.”

— DON DEBENEDICTIS

**T**hanks to the federal Defend Trade Secrets Act of 2016 and changes in patent law, Lumish said, the amount of trade secrets litigation has increased significantly over the last few years.

“My practice has gone from one that ten years ago was 90% patents to now about ... 60% trade secrets,” he said.

That isn’t always a helpful change, especially for the defense. Patents are written documents meant to clearly explain inventions. Trade secrets, however, are rarely described early in litigation.