

Daily Journal

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TOP INTELLECTUAL PROPERTY LAWYERS 2020



Douglas E. Lumish

As robo-cars threaten disruption in the transportation sector, Lumish — the vice chair of Latham & Watkins LLP’s litigation and trial department — is deeply involved in market-shaping disputes over their underlying technology.

For San Jose-based client Velodyne Lidar Inc., Lumish is lead counsel in litigation contending that a rival, Quanergy Systems Inc. of Sunnyvale, infringes Velodyne’s patent for a spinning LiDAR sensor used to detect and map terrain in three dimensions. The device serves as the “vision” for self-driving cars; it is foundational technology used by the majority of companies in the autonomous vehicle industry.

“If you see any self-driving car on the street with bubbles on the roof, that’s ours,” Lumish said. “This is very important technology in an emerging billion-dollar transformative industry.”

Quanergy sued Velodyne in the Northern District seeking declaratory judgment that it does not infringe Velodyne’s key patent; Velodyne counterclaimed.

Following a technology tutorial and claim construction hearing, U.S. District Judge Edward J. Davila of San Jose issued a claim construction order that adopted nearly all of Velodyne’s proposed constructions, Lumish said. *Quanergy Systems Inc. v. Velodyne Lidar Inc.*, 16-CV05251 (N.D. Cal., filed Oct. 4, 2017).

The case then moved to the Patent Trial and Appeal Board, where Lumish after a February 2019 trial obtained a complete win for Velodyne, with the validity of every claim affirmed, preserving the company’s seminal patent for the Lidar “vision” device.

Lumish noted that once the PTAB institutes an inter partes review, 81 percent of all patents have some or all of their claims invalidated. Overcoming those long odds, he was able to salvage every claim in the disputed Lidar patent. Quanergy has said it will appeal.

Lumish is also battling over the IP in question at the U.S. International Trade Commission. “They are investigating China’s unfair trade practices, whereby they take our technology and make infringing copies,” he said.

In September, the ITC voted to follow up on Lumish’s complaint against respondents Hesai Photonics Technology Co. Ltd. of Shanghai, China, and Suteng Innovation Technology Co. Ltd., a company also known as RoboSense, of Shenzhen, China. *In the Matter of Certain Rotating 3-D LiDAR Devices, Components Thereof, and Sensing Systems*



FIRM
Latham & Watkins LLP

CITY
Menlo Park

SPECIALTY
Patent, trade secrets litigation

Containing the Same, 337-TA-1173 (ITC, filed Aug. 15, 2019).

A parallel Northern District case has been stayed pending the ITC outcome. *Velodyne Lidar Inc. v. Hesai Photonics Technology Co. Ltd.*, 19-CV04742 (N.D. Cal., filed Aug 12, 2019).

“These technologies are on the bleeding edge of changing the world,” Lumish said, “so it’s fun for me. When you try to explain it all to a jury, the storytelling aspect of litigation takes over. But you know, I’ve never ridden in one of those cars. I’ve got to fix that.”

— John Roemer