

IP MVP: Latham & Watkins' Douglas Lumish

By **Scott Flaherty**



Douglas Lumish
Latham & Watkins LLP

Law360, New York (November 19, 2013, 3:58 PM ET) -- Having established himself as a go-to attorney in patent trials, Latham & Watkins LLP's Douglas Lumish recently took a leading role in a successful representation of Google Inc. and helped TransPerfect Global Inc. win a \$1 million jury verdict in an infringement dispute, landing him among Law360's Intellectual Property MVPs.

At Latham, which he joined in May along with three other intellectual property partners, Lumish has continued to build on a reputation as a top litigator in patent infringement cases that go to trial. Because of that reputation, and the experience and skill that lie underneath it, Lumish and his team have often been tapped in the later stages of cases, once a company decides it wants to duke it out in court.

"We are best known, I think as a group, for trial work, our ability to win patent cases," Lumish explained. "We're brought into cases late stream."

One recent, successful late entry into a case was Lumish's representation of Google Inc. and YouTube LLC in an suit lodged by Eolas Technologies Inc., which alleged infringement of patents related to basic Internet technology, such as streaming video and online searches.

Though several other companies had previously opted to settle with Eolas over similar claims, Google was among those that chose to fight in court, and — with about six weeks to go before opening arguments — the company called on Lumish and his team, he said.

"We had six weeks where we were drinking from a fire hose," he said, recalling the run-up to the Eolas trial.

In February 2012, a jury in Texas federal district court found that the Eolas patents were invalid as anticipated and obvious, and that ruling was affirmed in July by the Federal Circuit.

Another of Lumish's recent successes came in a dispute over language translation technology, in which the Latham attorney represented TransPerfect Global.

TransPerfect had initially sought a declaratory judgment that it had not infringed patents held by website translation company MotionPoint Corp., but the suit eventually expanded. A California federal jury found in July that MotionPoint had infringed one of TransPerfect's patents, and that MotionPoint's patents were invalid and not infringed.

In representing TransPerfect, Lumish said the focus was primarily on proving that the company had not improperly used another's technology; the jury's finding that MotionPoint actually infringed a TransPerfect patent was an added bonus.

Though he has had a strong track record in patent cases, Lumish said when he was entering the legal field, he didn't initially imagine himself practicing in the realm of intellectual property.

"I didn't see myself as a patent lawyer; I thought patent law would be pretty boring," he said. "I wanted to be a trial lawyer more than anything else."

With that desire in mind, he set out early in his career to work with and learn from a top trial attorney. The one he landed with — Matthew Powers, now of Tensegrity Law Group LLP — just so happened to specialize in patent cases, which presented unique challenges that Lumish learned to enjoy tackling.

For Lumish, one key to trying patent cases is knowing the ins and outs of the technology in a given case, along with the intricacies of the legal arguments at play. But, he added, those are only threshold matters — the hardest part is crafting all of that technical knowledge into a narrative that can sway a jury.

"You have to find a way to weave that into a story about people," he said. "But that's what makes it fun."

And, although he enjoys some of the more technical aspects of patent litigation — things like claim construction that lay a foundation for a case as it moves toward trial — there's still nothing that beats being in court, Lumish said.

"It's all about getting to the final showdown," he said. "You're staring the jury in the face and you've got to convince them that you're right."

Going forward, Lumish said there are no signs that he and his team at Latham will slow down — they plan to continue pushing toward a goal of building one of the top IP practices in the country.

"We want to establish our team as the one that should be on speed dial when you have your toughest case," he said.

--Editing by Katherine Rautenberg.