

2015 LITIGATION DEPARTMENTS OF THE YEAR

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LATHAM

Standing left to right: Julie Holloway; James Lynch; Belinda Lee; Christopher Yates.

Seated left to right: Peter Wald; Michele Johnson; Robert Sims

The litigation department at Latham & Watkins has hit the sweet spot. The firm's California roots, combined with its global reach, position it as a formidable litigation powerhouse, especially in defense of technology companies and their executives.

The firm's wins in two competitive Litigation Department of the Year subcategories—antitrust and white-collar—serve as Exhibits A and B for Latham's

courtroom bona fides. They also demonstrate the breadth of its practice.

But don't mistake breadth for lack of focus. "We don't claim to add unique value to every possible matter that's out there," said James Lynch, the San Francisco-based vice chair of Latham's global litigation department. Latham's strength, Lynch says, lies in representing clients in high-stakes cases that are on the legal cutting edge.

And in matters with well-established law, Latham's West Coast litigators have repeatedly proven they can outperform opposing counsel before judges and juries.

An IP team turned a potentially \$44 million patent infringement case into a million bucks for one client that clawed its way from target to victor. In a price-fixing suit, Latham persuaded a judge to reject class certification despite limited precedent. And

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in white-collar, a team took an insider trading case to trial and walked away with a complete defense verdict.

Those were standouts during a period that also included a win for Apple in a high-profile action over the iBooks trademark, the end to a securities class action against Ernst & Young arising out of the IndyMac failure, and the firm taking a lead role representing Allergan in its epic battle with activist investor Bill Ackman, whose failed hostile takeover of the company spawned high-stakes litigation.

One of the firm's most dramatic trial wins came in the insider trading case. The U.S. Securities and Exchange Commission accused Manouch Moshayedi, former CEO and chair of the computer data storage technology company sTec Inc., of unjustly enriching himself and family members by \$267 million. The SEC claimed he moved ahead with a secondary offering of sTec stock while working on a side deal with the company's stop customer to hide an earnings shortfall.

The Latham team led by partners Patrick Gibbs, Matthew Rawlinson, and Sean Berkowitz, paired with co-counsel at Paul Hastings, got a jury to see that the information the SEC accused Moshayedi of concealing was already out in the market.

It was one of the SEC's largest insider trading actions.

And it took a jury in the Central District of California just four hours to clear Moshayedi of wrongdoing.

"These guys worked tirelessly," says Moshayedi. "Eighteen hours a day, six days a week."

In antitrust, partners Belinda Lee and Brendan McShane were able to stop the momentum the plaintiffs bar had gained in price-fixing cases by getting a judge to block class certification for both indirect and direct plaintiffs in suits alleging bid rigging and price fixing in the market for optical disk drives. Not only did Lee argue for client Toshiba Samsung Storage Technology Korea Corp., but she was tapped to make the case on behalf of all of the other defendants who had their own high-caliber counsel.

U.S. District Judge Richard Seeborg sided with Lee, even though co-defendant Hitachi-LG Data Storage Inc. had already agreed to plead guilty in a related criminal action and pay a \$21.1 million fine. At the time, there had only been one other case where a judge denied class certification in follow-on private antitrust litigation where the Justice Department had already netted a conviction, and that case was in a different circuit.

When it comes to winning over juries, a team of IP litigators from Quinn, Emanuel, Urquhart & Sullivan was no match for

Latham partners Douglas Lumish and Jeffrey Homrig.

Website translation company TransPerfect Inc. started out playing defense when competitor MotionPoint Corp. sued in the Northern District of California. MotionPoint was demanding a licensing agreement related to hosting a translated site via a proxy server. "We had a competitor telling our customers that it was illegal to use us," says TransPerfect co-CEO Philip Shawe.

Lumish and the team asserted a patent that TransPerfect acquired before trial and sought an injunction blocking MotionPoint from using that patented method for ordering a "one-click" translation of a Web page. (Lumish and the team were practicing at Kasowitz, Benson, Torres & Friedman at the time but moved to Latham in the months leading up to trial in July 2013.)

Not only did a jury find that TransPerfect didn't infringe MotionPoint's patents, it also found them invalid. On top of that, the jury awarded TransPerfect \$1 million in damages, finding that MotionPoint had infringed TransPerfect's acquired patent.

"We went from a defensive position to a completely offensive position," said TransPerfect's Shawe.

—Ross Todd