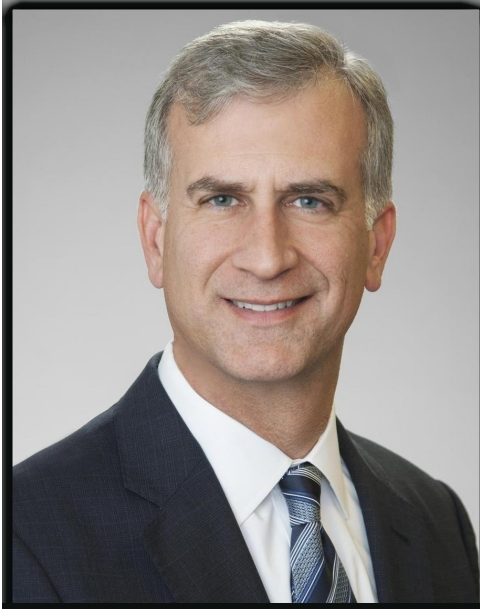


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DOUGLAS E. LUMISH

Lumish, who has been with Latham for eight years, is co-chair of the firm’s Bay Area litigation and trial department. His specialties include IP litigation with a recently growing focus on trade secrets law department. His specialties include IP litigation with a recently growing focus on trade secrets law.

After Congress passed the Defend Trade Secrets Act of 2016, he and the firm began posting webinars predicting a coming wave of trade secrets litigation that would in part take the place of patent infringement claims. “We were prescient, because we saw some uncertainty in the patent law realm,” he said. That included the fallout from the Supreme Court’s Alice ruling calling into question the value of software patents and reinforcing defenses to infringement claims.

“A lot of [patent] claims went down on eligibility, and the IPR process could stall cases for 18 months or so. There got to be more weapons in the patent defense arsenal. The plaintiff bar began looking more to trade secrets as a lucrative alternative due to the new federal statute and some big damages verdicts.”

Lumish declined to be quoted directly about his cases, but several of them are clearly instances where what might once have involved patent claims now deals instead with trade secrets causes of action.

In a battle over electric car rivals, he represented Rivian Automotive Inc. in defend-

ing against trade secrets claims filed by Tesla Inc. just after Rivian raised \$2.5 billion in new funding and was reportedly aiming to bring an EV pickup truck to market. In the past, Tesla might have found patent infringement allegations to bring to court to impede its competitor. Instead, Tesla alleged that several of its employees left to work at Rivian and that they misappropriated trade secrets when they sent Tesla files to their personal email accounts before departing. *Tesla inc. v. Rivian Automotive Inc.*, 20-cv-368472 (S. Clara Co. Super. Ct., filed July 17, 2020).

Another case that might once have involved patents pits an Illinois-based pharmaceutical company against an Icelandic competitor. Lumish represents AbbVie Inc. on trade secrets misappropriation claims that the offshore company is attempting to enter the U.S. market with a drug that is a biosimilar copy of AbbVie’s popular Humira. *AbbVie Inc. et al. v. Alvotech hf*, 1:21-cv-01530 (N.D. Ill., filed March 18, 2021).

Lumish’s complaint alleges that Alvotech “embarked on an unlawful plot to surreptitiously take AbbVie’s confidential and proprietary trade secrets related to the confidential large scale manufacturing process for Humira in order to develop and manufacture its copycat product.”

— John Roemer

FIRM

LATHAM & WATKINS LLP

CITY

MENLO PARK

PRACTICE TYPE

LITIGATION