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TOP TRADE SECRETS LAWYERS 2020

Patrick M. Ryan

Ryan focuses on trade secret cases as part of his complex commercial litigation practice. Last year he achieved one of the largest trade secret wins in California with an \$845 million judgement for his high-tech client, whose former employees took source code and other materials to a competitor.

Currently, he sees risks and rewards in play as employees work from home during the pandemic. “Chaos creates opportunity for both businesses and thieves,” Ryan said. “Remote connectivity can give rise to greater collaboration for a company, because you can get your smartest people together routinely in a way that didn’t always happen before.

“At the same time, it can be tempting for employees to take things they shouldn’t. My practice tries to find the balance for clients in navigating these waters. If you employ so-called ‘best practices’ to secure data, you can end up being overly restrictive—and then how do you innovate? We strive to find reasonable methods that fit with collaboration and innovation.”

Ryan is lead counsel for Uber Technologies Inc. in a misappropriation of trade secrets and breach of contract case over an auto-leasing program dispute now in its early stages. *Bama Commercial Leasing LLC v. Uber Technologies Inc.*, CGC-19-579763 (S.F. Super. Ct., filed Oct. 3, 2019).

In the big win last year, Ryan represented Dutch-based semiconductor chip processing software company ASML US Inc. in its suit against rival XTAL Inc., founded in San Jose by two former employees of an ASML

subsidiary. *ASML US Inc. v. XTAL Inc.*, 16-cv-295051 (S. Clara Co. Super. Ct., filed May 11, 2016).

At issue was software used to maximize the manufacturing of process chips used in smartphones and many other devices. Ryan’s client claimed its former employees took highly confidential trade secrets to a startup. “They became a not insignificant competitor in the marketplace,” he said.

The technology was complex and tricky to explain in court. Ryan used teaching aids to make his case to the jury. “We had a lot of video animation to help them understand the nuts and bolts of the process. It was very complicated but important stuff.”

To clarify matters, Ryan said he studied hard. “I spent a lot of time with the subject matter experts. Then I got up in front of those same experts and tried to sell them on the stuff they had taught me. I let ‘em rip me apart until I came up with simple and easy examples of what jurors needed to know.”

The upshot was the \$845 million verdict and an assignment of the defendant’s intellectual property to his client. The defendant XTAL Inc. declared bankruptcy and a court ordered its officials barred from working in the field for three years.

“In my opening statement I could see I was getting it across to the jury,” Ryan said. “And that happened even though my opening statement had to be completely redone on the eve of trial after XTAL produced key evidence in response to a Court order we obtained.”

— John Roemer



FIRM:
Bartko Zankel Bunzel & Miller

CITY:
San Francisco

PRACTICE AREA:
Complex commercial and intellectual property litigation

