

Skilled in the Art: Latham Flushes High-Tech Tissue Patents

By **Scott Graham**

Quick: What has an average peak to valley waviness of 140 microns or less, a waviness uniformity of 27 microns or less, an average primary amplitude of 50 microns or less and an amplitude uniformity of 8 microns or less?

The answer to this high tech question: bath tissue. But not Sam's Club Members Mark bath tissue.

A **Latham & Watkins** team led by partners **Matt Moore**, **Max Grant**, and **Charles Sanders** persuaded a Delaware jury last week that Members Mark tissue does not infringe three patents held by First Quality Tissue, the maker of Panda bath tissue.

Latham further persuaded jurors that all of the asserted claims of First Quality's 9,506,203, 9,580,872 and 9,725,853 patents on "soft through air dried" tissue are invalid as anticipated by Charmin Ultra.

"We are pleased that the jury found that all three asserted patents were not infringed and were invalid



(Photo: Diego M. Radzinski/ALM)

Latham & Watkins partners Max Grant, left, and Matt Moore.

and we thank them for their time," said Moore, who represented Irving Consumer Products in First Quality Tissue v. Irving Consumer Products.

Latham's team for the five-day trial before U.S. District Judge Richard Andrews also included partners **Jeff Homrig** and **Inge Osman**; counsel

Dale Chang; and associates **David Zucker**, **Paul Weinand** and **Sami Al-Marzoog**. Morris, Nichols, Arsht & Tunnell and Ashby & Geddes provided local counsel.

Lock Haven, Pa.-based First Quality was represented by Fish & Richardson.