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Jurors Award \$25 Million to Bilked Inventor

Biotech Competitor Filched Technology After Business Deal

Needle-Free IV Device

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SAN DIEGO — In a significant patent law verdict, a San Diego federal jury awarded an inventor \$25.8 million in damages after he alleged a medical supply firm stole his idea for a device and raked in millions of dollars in profits by marketing the device as its own.

The jury in the U.S. District Court for the Southern District, in San Diego, on Monday awarded inventor Bobby Rogers and Rozi, the Ohio company of his deceased business partner, Rob Zimmer, \$20.8 million in actual damages.

Judge Rudi Brewster awarded the partnership an additional \$5 million in punitive damages.

Trade Secrets

Under federal law, only the court can award punitive damages on a charge of misappropriation of trade secrets.

Rogers, who lives in San Diego, contended in the three-week trial that medical supply company B. Braun USA, the U.S. Division of Germany-based B. Braun, stole the technology for a needle-free intravenous delivery system developed by Rogers and Zimmer and attempted to hide the fraud.

According to news accounts, Brewster said he awarded punitive damages because Braun tried to hide its theft of trade secrets.

"There was a definite program [by Braun] to keep the fraud concealed, and it was only after Mr. Rogers discovered it on the Internet that he found out about it," Brewster said.

Licensing Agreement

Theodore Pianko, counsel for Pennsylvania-based B. Braun USA with the Newport Beach firm of Christie, Parker & Hale, declined to comment on the case.

Rogers' attorney, Robert Keese, a partner with Los Angeles' Girardi & Keese, said he was impressed by the jury's performance after what turned out to be a long and arduous case.

"This jury unanimously and strongly sent the message that a trade secret was misappropriated and fraud was committed," Keese said.

According to Rogers, he and Zimmer entered into a licensing agreement with Braun to market their IV device in 1992.

The IV syringes have a valve for drug flow, eliminating the possibility of medical workers poking themselves with the needles.

In 1997, Rogers terminated the licensing

agreement with Braun because little was being done with the invention, Keese said.

Shortly afterward, Rogers was researching patents on the Internet when he came across the IV system and saw that Braun had patented it.

When Rogers objected, Braun filed an action seeking a declaration by the court that the medical company owned the rights to the device.

Rogers filed a counterclaim in 1998, alleging misappropriation of trade secrets and fraud, contending the company bilked him out of millions of dollars in royalties for the product.

At trial, Braun officials said they had sold \$30 million of the IV systems. Rogers, however, contended the company sold several times that.

Braun tried to settle the case, with a final offer of \$1 million.

The panel awarded the Rogers partnership \$16 million in past damages, \$2.5 million in future damages and \$2.25 million for fraud.

Under the jury's malice finding, Brewster awarded Rogers \$5 million in punitive damages. Keese had sought \$20 million under the malice award.

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