

Daily Journal

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TOP VERDICTS OF 2015

The Largest and most significant verdicts and appellate reversals handed down in California in 2015

TOP DEFENSE RESULTS

Alfred E. Mann Foundation et al. v. Cochlear Corp. et al.

case INFO

Patent infringement

Central District

U.S. District Judge Fernando M. Olguin

Defense attorneys: Sheppard, Mullin, Richter & Hampton LLP, Bruce G. Chapman, Laura M. Burson, Scott Miller, Darren M. Franklin, Andrew Kim, Manuel C. Nelson, Dennis Smith

Plaintiffs' attorneys: Morgan, Lewis & Bockius LLP, Daniel Grunfeld, Daniel Johnson Jr., Michael John Lyons, Jason Evan Gittleman, Rachel Melissa Walsh; Kaye Scholer LLP, Robert David Estrin, Robert R. Laurenzi, Scott G. Lindvall, Oscar D. Ramallo, Jonathan Moshe Rotter; Merchant & Gould PC. Brian G. Bodine, Peter A. Gergely, Brett A. Hertzberg; Morrison & Foerster LLP, Charles S. Barquist; Perkins Coie LLP, Kaustuv M. Das



FROM LEFT, BRUCE G. CHAPMAN, LAURA M. BURSON AND SCOTT MILLER

ruled in post-trial orders that three of four claims were too indefinite to merit patent protection.

The judge cleared the defendant of willful infringement liability, leaving Cochlear on the hook for damages on one remaining patent. *Alfred E. Mann Foundation et al. v. Cochlear Corp. et al.*, 07-CV8108 (C.D. Cal., filed Dec. 13, 2007).

The case is currently on appeal at the U.S. Circuit Court of Appeals for the Federal Circuit.

Lawyers with Sheppard, Mullin, Richter & Hampton LLP who helped obtain the reversal for Cochlear, called the case significant.

"This case serves to emphasize in an emphatic way the effect of recent develop-

ments in the law of invalidity of patents due to indefinite claiming," the firm said in a statement.

The Sheppard Mullin team, led by Bruce G. Chapman of the intellectual property practice group, built the defense on two recent U.S. Supreme Court rulings which both lowered the standard for indefiniteness and stressed deference to a district court's factual finding.

The Sheppard Mullin team identified key defenses early in the litigation, the firm said, and they were able to persuade the judge that Alfred E. Mann's waiver defenses lacked merit.

— John Roemer

Patents related to inner ear hearing aid implants were the subject of \$131.2 million Central District patent jury verdict against Australian medical device maker Cochlear Ltd. and its U.S.-based subsidiary.

But plaintiff Alfred E. Mann Foundation saw that big award tossed in March 2015 after U.S. District Judge Fernando M. Olguin