

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

International Medical Devices, Inc. v. Robert Cornell

International Medical Devices · No. 2:20-cv-03503-CBM (RAOx) · Decided March 14, 2025

SUMMARY

The United States District Court for the Central District of California denies Defendants’ renewed motion for judgment as a matter of law and motion for a new trial. The order addresses trade secret misappropriation, trademark infringement, counterfeit marking, breach of contract, patent invalidity, and claim-construction arguments arising from the development and marketing of a competing penile implant product. The court concludes that sufficient evidence supported the jury’s verdicts and that Defendants did not establish grounds for a new trial.

CASE DETAILS

COURT	United States District Court for the Central District of California
JURISDICTION	United States District Court for the Central District of California
DECIDED	March 14, 2025
DOCKET	2:20-cv-03503-CBM (RAOx)
DISPOSITION	other
PROCEDURAL POSTURE	Defendants renewed their motion for judgment as a matter of law under Federal Rule of Civil Procedure 50(b) and moved for a new trial under Rule 59 after a jury verdict for Plaintiffs on trade-secret misappropriation, trademark infringement, counterfeit-mark, breach-of-contract, and patent-invalidity claims.
STANDARD OF REVIEW	For Rule 50(b), the court determines whether, viewing the evidence and reasonable inferences in favor of the nonmoving party and without weighing credibility, there is a legally sufficient evidentiary basis for a reasonable jury to find for that party. A Rule 59 motion may be granted when the verdict is contrary to the clear weight of the evidence, is based on false or perjurious evidence, or is necessary to prevent a miscarriage of justice.
PRECEDENTIAL VALUE	district court opinion; precedential status not identified in the source
PARTIES	International Medical Devices, Inc., Menova International, Inc., James Elist, MD v. Robert Cornell, MD, Augmenta, LLC, Robert J. Cornell

M.D., P.A., Jonathan Clavell Hernandez, MD, Clavell Urology, PLLC, OAM LLC, Cornell Cosmetic Urology, LLC, David Louis Nichols, Huck Medical Technologies, Inc., Hans Mische, Hans Mische, LLC, Run Wang, MD, RW Global Men's Health Consulting Services, PLLC, Richard B. Finger, Lata Lignum

TOPICS

trade secrets

trademark infringement

motion for new trial

civil procedure

contracts

PRACTICE AREAS

intellectual property

trade secrets

trademark law

contracts

civil procedure

QUESTIONS PRESENTED

1. Whether Defendants were entitled to judgment as a matter of law or a new trial because Plaintiffs failed to prove that the four alleged trade secrets were secret, had independent economic value, or were subject to reasonable efforts to maintain secrecy.
2. Whether the evidence was legally insufficient to establish that Cornell and the other Defendants individually misappropriated Plaintiffs' trade secrets.
3. Whether Plaintiffs presented sufficient evidence of harm resulting from the alleged trade-secret misappropriation.
4. Whether the evidence was insufficient to support the jury's trademark-infringement verdict because Plaintiffs did not prove damages or likelihood of confusion.
5. Whether the evidence was insufficient to support the counterfeit-mark verdict because the mark was not counterfeit, Defendants lacked the requisite knowledge, confusion was not shown, or the mark was not used in connection with an offer for sale.
6. Whether the evidence was insufficient to support the breach-of-contract verdict because the information was publicly available, already known, or not confidential under the nondisclosure agreement.
7. Whether Plaintiffs failed to prove their patent-invalidity claims by clear and convincing evidence because the trade secrets were not significant inventive aspects of the patents.
8. Whether Defendants were entitled to a new trial based on the court's alleged failure to construe patent claims.

HOLDINGS

1. The evidence was legally sufficient for the jury to find that Plaintiffs' four alleged trade secrets were not generally known, had independent economic value, and were protected through reasonable efforts; judgment as a matter of law and a new trial were therefore unwarranted.
2. The evidence supported the jury's finding that Cornell misappropriated Plaintiffs' trade secrets by acquiring them during training subject to an NDA and using them to develop Augmenta; neither judgment as a matter of law nor a new trial was warranted.

3. The evidence permitted reasonable jurors to find that Mische, Nichols, HMT, Finger, and Wang knew or had reason to know that trade-secret information was derived from Cornell or another person owing Plaintiffs a duty of secrecy, and that some defendants used the information; judgment as a matter of law and a new trial were unwarranted.
4. Plaintiffs presented sufficient evidence of harm, including loss of secrecy, loss of commercial protection, and inability to commercialize the concepts with protection; judgment as a matter of law and a new trial were unwarranted.
5. The evidence supported the trademark-infringement verdict because Plaintiffs presented evidence of harm and actual customer confusion resulting from Defendants' use of the Penuma mark; the motion was denied.
6. The evidence supported findings that the Penuma mark was counterfeit, Cornell knew it was counterfeit, its use was likely to confuse, and the mark was used in connection with an offer for sale even though no actual sale or distribution occurred.
7. The evidence supporting trade-secret misappropriation also supported the jury's finding that Cornell breached the NDA; judgment as a matter of law and a new trial were unwarranted.
8. The evidence was sufficient for the jury to find that Plaintiffs' trade secrets significantly contributed to claims in the challenged patents, and Defendants failed to show that the clear weight of the evidence made the patent-invalidity verdict erroneous.
9. Defendants could not obtain a new trial based on the court's alleged failure to construe patent claims because they had not previously objected and had affirmatively taken the position that the relevant issues should be decided by the jury.

KEY QUOTATIONS

"A Rule 50(b) motion for judgment as a matter of law is not a freestanding motion. Rather, it is a renewed Rule 50(a) motion." (at 2)

"The secrecy requirement is generally treated as a relative concept and requires a fact-intensive analysis." (at 3)

"Even if Cornell did not use his breach of the NDA to acquire the information, signing the NDA to acquire the trade secrets only to breach the NDA later can also constitute 'improper means.'" (at 6)

"Because direct evidence of misappropriation and misuse is not always available, plaintiffs can rely on circumstantial evidence to prove their case." (at 7)

"where a party assumes a certain position in a legal proceeding, and succeeds in maintaining that position, he may not thereafter, simply because his interests have changed, assume a contrary position" (at 11)

FACTUAL BACKGROUND

Plaintiffs alleged that four trade secrets concerning the design and surgical use of a cosmetic penile implant were disclosed during a training session attended by Robert Cornell, who had signed a nondisclosure agreement. Evidence showed Cornell used the information in developing a competing Augmenta implant, and that other

defendants participated in developing, marketing, or patenting the competing product. Plaintiffs also presented evidence that Cornell and his medical practice used or advertised the Penuma mark without authorization, and that the challenged trade secrets contributed to claims in two patents.

PROCEDURAL HISTORY

Plaintiffs brought claims arising from alleged misappropriation of trade secrets relating to a cosmetic penile implant, infringement and counterfeiting of the Penuma mark, breach of a nondisclosure agreement, and patent invalidity. After a jury trial, the jury returned verdicts supporting Plaintiffs' claims. Defendants filed the renewed Rule 50(b) and Rule 59 motions, which the court denied in full; the court had previously entered a permanent injunction concerning the Penuma trademark.

DISPOSITION

other

CASES CITED

- E.E.O.C. v. Go Daddy Software, Inc., 581 F.3d 951, 961 (9th Cir. 2009)
- Reeves v. Sanderson Plumbing Prods., Inc., 530 U.S. 133 (2000)
- Molski v. M.J. Cable, Inc., 481 F.3d 724, 729 (9th Cir. 2007)
- DVD Copy Control Assn., Inc. v. Bunner, 116 Cal. App. 4th 241, 251 (2004)
- BladeRoom Grp. Ltd. v. Facebook, Inc., 2018 WL 452111, at *3-*4 (N.D. Cal. Jan. 17, 2018)
- Religious Tech. Ctr. v. Netcom On-Line Commc'n Servs., Inc., 923 F. Supp. 1231, 1253-1254 (N.D. Cal. 1995)
- Calendar Rsch. LLC v. StubHub, Inc., 2017 WL 10378336, at *3-*4 (C.D. Cal. Aug. 16, 2017)
- Yield Dynamics, Inc. v. TEA Sys. Corp., 154 Cal. App. 4th 547, 564 (2007)
- In re Qualcomm Litig., 2019 WL 13159816, at *9 (S.D. Cal. Mar. 14, 2019)
- Wisk Aero LLC v. Archer Aviation Inc., at *14 (N.D. Cal. June 9, 2023)
- Silvaco Data Sys. v. Intel Corp., 184 Cal. App. 4th 210, 229 (2010)
- Kwikset Corp. v. Superior Ct., 51 Cal. 4th 210, 229 (2011)
- New Hampshire v. Maine, 532 U.S. 742, 749 (2001)
- SkinMedica, Inc. v. Histogen Inc., 869 F. Supp. 2d 1176, 1195 (S.D. Cal. 2012)