

ASML Secures \$223M Jury Verdict In Trade Secrets Row

By **Kevin Penton**

Law360 (November 30, 2018, 10:56 PM EST) -- A jury in a California court has awarded ASML at least \$223 million in a case in which the U.S. arm of the Dutch semiconductor maker alleged that rival XTAL induced employees to breach their contracts with ASML and reveal various trade secrets.

The Santa Clara Superior Court jury entered a verdict that orders XTAL Inc. to pay ASML US Inc. the nine-figure amount and that found the defendant company's conduct to be malicious, which allows for the possibility that a judge could order punitive damages and award attorneys' fees, according to court documents.

The jury determined that XTAL intended for several ASML employees to breach their contracts with their employer, leading XTAL to be unjustly enriched through the theft of secrets such as source code, user manuals and image models, according to the special verdict form returned by the jury on Nov. 28.

The California court is set to determine the amount of punitive damages and attorneys' fees it may award to ASML at a later date, according to court documents.

ASML initiated the lawsuit in May 2016 and contended in an amended complaint that its rival pushed employees to secretly work for XTAL, steal the secrets and assist in securing a contract with an ASML customer. XTAL went on to develop its lithography business at a pace that would not have been possible had it not stolen the secrets, ASML contended in the lawsuit.

The jury also ordered XTAL to pay ASML \$1.2 million for what the company spent in conducting its investigation of whether XTAL violated California's computer fraud statute, according to the special verdict form.

ASML successfully secured court orders that instructed XTAL to turn over various computers, source code and other devices for inspection, allowing ASML to collect sufficient evidence of its rival's wrongdoing, said Patrick M. Ryan, an attorney representing the company.

"I am gratified by the jury's powerful verdict in favor of ASML, which will help secure and protect the tremendous hard work and innovation of ASML and its brilliant and dedicated employees," Ryan said.

XTAL officials could not be reached for comment on Friday.

ASML is represented by Patrick M. Ryan, C. Griffith Towle and Stephen C. Steinberg of Bartko Zankel Bunzel & Miller.

Counsel information for XTAL was not immediately available on Friday.

The case is ASML US Inc. v. XTAL Inc., case number 16-cv-295051, in the Superior Court of the State of California, County of Santa Clara.

--Editing by Jay Jackson Jr.

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