

Patent

Tech Firm Wins Big Despite \$274K Verdict Against It

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In a David versus Goliath patent battle, a small technology company has won big, even with a \$274,000 verdict against it for patent infringement.

David in this case is Extreme Networks Inc., and Goliath is Lucent Technologies Inc.

And David won even for losing, considering that Lucent was seeking damages of \$24.7 million for infringement of four of its patents relating to networking technology.

"We are very thankful," said Terrence P. McMahon of **McDermott Will & Emery** in Palo Alto, Calif., counsel for Extreme Networks. "It was a very smart, careful jury."

McMahon led a litigation team that included Vera Elson, Behrooz Shariati, Raphael Lupo and Daniel Foster, his colleagues at McDermott Will, and Karen Jacobs Loudon of Morris Nichols Arsht & Tunnell in Wilmington, Del.

McMahon touts his client's product as simply better and faster than the networking technology that Lucent was developing.

In the words of Elson, "Lucent missed the boat" with the technology it chose to pursue.

McMahon explained that Extreme Networks debuted its technology for the first time in 1996 at a prestigious trade show in Las Vegas. The technology organizes voice and data transmissions, congestion control, network security and broadcasting

Shortly afterward, Lucent began talking to Extreme Networks about a cooperative working arrangement.

Those efforts were initially unsuccessful, but eventually Lucent came back to Extreme Networks, asking it to install certain features in its technology.

Extreme Networks did so, only to be sued by Lucent for patent infringement, Extreme said.

Lucent filed suit against Extreme Networks two years ago in the U.S. District Court for the District of Delaware.

The suit alleged infringement of seven claims of five different patents, and sought \$24.7 million in damages.

Shortly before trial, one of the patents was dropped from the suit. The remaining claims proceeded to trial, which lasted two weeks.

The jury's verdict was a "victory for the little guy," according to McMahon, which is particularly notable because statistics show that plaintiffs win 80 percent of the time in Delaware.

Lucent was represented by John Desmarais of Kirkland & Ellis in New York. He was not available for comment.