

## Doctor wins \$482 million patent verdict

by Kimberly Atkins

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Plaintiff's attorney Paul Taskier

A Texas jury awarded \$482 million to a radiologist on his claim that a medical stent manufacturer willfully infringed his patent.

It took only two hours for the jury to deliberate and then find that Cordis Corp., a subsidiary of Johnson & Johnson, willfully infringed on the patent developed by Philadelphia radiologist Dr. Bruce N. Saffran.

Paul R. Taskier, trial attorney for Saffran, said the key to winning was having witnesses and co-counsel who could present the highly technical facts of the case in a way that the jury could easily understand.

"We had extraordinarily good witnesses, including two technological experts and one damages expert who were fantastic, and we had our client, who was a terrific witness as well," said Taskier, a partner in the Washington office of Dickstein Shapiro.

Taskier said his co-counsel, Houston attorneys Eric M. Albritton, Danny L. Williams and Matthew Rodgers, provided a critical connection for the jurors.

"It was so important to have local lawyers getting up and talking to the jury," Taskier said. Eastern Texas is "a place with its own culture and style, and having someone who speaks the language of the jury, and understands just how to phrase things in a way that the jury understands is so important."

### 'My gosh, that looks like my patent!'

Saffran claimed that in 1996 he developed a patent for the "Method and Apparatus for Managing Macromolecular Distribution," a technological process to be used in medical devices such as stents.

He then contacted several companies, including Cordis, to inquire if they had any interest in working with him to develop medical devices using the process. They declined, according to Taskier.

In 2001, while doing research, Saffran discovered that Cordis was conducting trials for its newly developed product, the Cypher drug-eluting cardiac stent. When he evaluated the product more, he found something that looked familiar, Taskier said.

"He said, 'My gosh, that looks like my patent!'" Tasker said.

Saffran contacted the company, which denied using his patent.

He filed suit in U.S. District Court for the Eastern District of Texas, which frequently hears patent claims, alleging willful patent infringement.

In a separate, related case, Saffran won a \$501 million verdict against Boston Scientific Corp. over the same patent in 2008. That case ultimately settled for \$50 million while the appeal was pending.

"I was surprised that the second case went to trial," Taskier said, adding that Cordis never made a settlement offer.

### Experts key

Taskier said that the plaintiff was prepared with a witness list of the nation's top experts.

"[Our experts] demonstrated a command of all the materials and theories, and that was a key driver in convincing the jury, particularly because the experts relied on Johnson & Johnson's own documents and the testimony from their witnesses," Taskier said. "Utilizing the other side's documents and witnesses was very compelling to the jury."

Calls to attorneys for the defense were directed to Cordis. In a statement, Cordis spokeswoman Sandy

Pound said that the company was "disappointed with the jury's ruling."

"The company believes this is contrary to both the law and the facts set forward in the case," Pound said.

The defendants appealed the verdict.

Saffran has a third case pending against Abbott Laboratories over the same invention. That case is scheduled to go to trial in August 2012, and Taskier said he would not be surprised if it did.

"Like I said, I didn't expect the second one to go to trial" after the first verdict, Taskier said. "I probably wouldn't take the risk if I were [the defendant's] counsel, but I can't speak for them."

*Questions or comments can be directed to the writer at: [kimberly.atkins@lawyersusaonline.com](mailto:kimberly.atkins@lawyersusaonline.com)*

### At-a-glance

**Verdict:** \$482 million in compensatory damages. \$111 million in pre-trial interest was subsequently awarded by the judge.

**State:** U.S. District Court for the Eastern District of Texas

**Type of case:** Patent infringement

**Status:** An appeal is pending before the Federal Circuit.

**Case name:** *Saffran v. Johnson & Johnson*

**Date:** Jan. 28, 2011

**Plaintiff's attorneys:** Paul R. Taskier, James W. Brady, Jr. and Kenneth W. Brothers of Dickstein Shapiro in Washington, D.C.; Eric M. Albritton, of The Albritton Law Firm in Longview, Texas; Danny L. Williams and Matthew Rodgers of Williams, Morgan and Amerson in Houston.

**Defense attorney:** Gregory L. Diskant and Scott B. Howard of Patterson, Belknap, Tyler and Webb in New York; Richard A. Sayles of Sayles Werbner in Dallas.

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