

Exhibit B

Declaration of Raymond S. Sims (Doc. No. 25)

Merck & Co., Inc. v. Mediplan Health Consulting, Inc., 1:05-cv-03650-DC

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

MERCK & CO., INC., and MSD
TECHNOLOGY L.P.,

Plaintiffs,

v.

MEDIPLAN HEALTH CONSULTING, INC.,
d/b/a RXNORTH.COM,

Defendant.

Civil Action No.
05-CIV-3650 (DC) (FM)
ECF Case

MERCK & CO., INC., and MSD
TECHNOLOGY L.P.,

Plaintiffs,

v.

NORTH PHARMACY, INC., and PPI
PIVOTAL PARTNERS, INC., d/b/a
CANADAPHARMACY.COM

Defendants.

Civil Action No.
05-CIV-3696 (DC) (FM)
ECF Case

MERCK & CO., INC., and MSD
TECHNOLOGY L.P.,

Plaintiffs,

v.

UNIVERSAL DRUG STORE LTD., d/b/a
UNIVERSALDRUGSTORE.COM,

Defendant.

Civil Action No.
05-CIV-3698 (DC) (FM)
ECF Case

DECLARATION OF RAYMOND S. SIMS

MERCK & CO., INC., and MSD
TECHNOLOGY L.P.,

Plaintiffs,

v.

CANADA DRUGS.COM PARTNERSHIP and
KRIS THORKELSON, d/b/a
CANADADRUGS.COM,

Defendants.

Civil Action No.
05-CIV-3699 (DC) (FM)
ECF Case

MERCK & CO., INC., and MSD
TECHNOLOGY L.P.,

Plaintiffs,

v.

MEDCENTER CANADA INC.,

Defendant.

Civil Action No.
05-CIV-3700 (DC) (FM)
ECF Case

MERCK & CO., INC., and MSD
TECHNOLOGY L.P.,

Plaintiffs,

v.

TOTAL CARE PHARMACY LTD. and
DAVE ROBERTSON, d/b/a
CROSSBORDERPHARMACY.COM,

Defendants.

Civil Action No.
05-CIV-3701 (DC) (FM)
ECF Case

DECLARATION OF RAYMOND S. SIMS

I, Raymond S. Sims, declare as follows:

1. I am a Vice President of CRA International, Inc. ("CRA") in its Chicago office and co-leader of the firm's Intellectual Property Practice. CRA is an international business consulting firm focusing on, among other things, intellectual property matters in the context of strategy, licensing, valuation and litigation consulting. CRA is a leading provider of expert damage analysis and testimony for complex intellectual property litigation matters. I was awarded a Bachelor of Commerce degree, with a concentration in accounting and finance, from the University of Calgary, in Alberta, Canada. Thereafter, I was awarded a Master of Management degree, with concentrations in accounting information systems and quantitative analysis, from Northwestern University's J.L. Kellogg Graduate School of Management.
2. I have served as a consultant to a wide variety of business and industrial clients and governmental agencies on matters involving financial and statistical analysis and modeling for the purpose of interpreting and projecting data and evaluating the economic impact of business decisions, transactions and economic events. I have served as an expert witness or consultant in a wide range of litigation matters, including patent, copyright, trademark and trade secret infringement litigation. Although the issues have varied from case to case, most included an analysis and evaluation of financial data for the purpose of determining the extent of financial damages. I have also advised clients on strategic and valuation issues

relating to intellectual property and license negotiations. My curriculum vitae, which includes all publications I have authored within the last 10 years, is attached hereto at Tab 1. A list of the cases in which I have testified in the last four years is attached hereto at Tab 2.

3. CRA is being compensated on a rate times hours basis for the work my staff and I perform. My current rate is \$560 per hour. The rates of other staff assigned to this project range from \$125 to \$440 per hour. CRA's compensation does not depend in any way on the outcome of this litigation.

I. Introduction

4. Plaintiffs Merck & Co., Inc. ("Merck") and MSD Technology L.P. (together, "Merck and MSD") have sued the above-named defendants (collectively, "the Defendants") for infringement of US Patent No. 4,444,784 ("the '784 patent") resulting from offers to sell and sales of infringing simvastatin products. I understand that the Defendants have filed a motion with the Court in which they seek to limit damages for patent infringement to the period ending December 23, 2005, which is the date of expiration of the '784 patent.
5. Counsel for Merck and MSD have asked me to provide my opinion indicating whether such a position is consistent with the economic theory and practice of patent damages. In my opinion it is not. Counsel for Merck and MSD have also requested that I identify the information and/or fact discovery that would enable one to assess Merck's contention that it is entitled to patent infringement damages for some period after the '784 patent expires.

II. Damages from Accelerated Market Entry

6. The statutory standard for damages is “adequate to compensate for the infringement, but in no event less than a reasonable royalty.”¹ Where an infringer sells a product that competes directly with the patentee’s product, and where as a result the patentee is able to prove that it has lost sales as a result of infringement, the patentee may be entitled to receive damages in the form of lost profits on the sales it would have made “but for” the infringement.
7. Determining the amount of lost profits arising as a result of lost sales involves first quantifying the infringing sales that the patentee would have made but for the infringement, and then proving the incremental profit that would have been earned on these sales. The goal is to compensate the patentee for the losses it suffered as a result of infringement.²
8. In the typical case, infringement litigation is concluded prior to patent expiry. Because in such cases an injunction would normally prohibit the infringer from continuing to operate in the market following the conclusion of litigation, what happens after the patent expires normally does not enter into the damages calculus. However, if the patent in question expires before the conclusion of infringement litigation, it may be relevant to consider harm suffered by the patentee in the form of lost sales following expiration of the patent, to the extent that these sales are lost as a direct result of the infringer’s acts during the patent’s life.

¹ 35 U.S.C. §284.

² See e.g., *State Industries, Inc. v. Mor-Flo Industries, Inc. and American Appliance Mfg. Corp.*, 883 F.2d 1573, 1577 (Fed. Cir. 1989).

9. In particular, infringing activities during the life of the patent may allow the infringer an opportunity to establish a solid position in the market. This could occur, for example, if the infringer's entry allowed it to build market presence, establish relationships with purchasers, or solidify customer recognition of its brand or product offerings. Once the patent expires, the infringer is then able to continue to sell and market its product from its established position in competition with the patentee. In the absence of infringement, however, the infringer would have had to build up its market presence from scratch, beginning at the time it was lawfully able to begin selling the patented product (i.e., normally when the patent expires). It is likely, if not certain, that the infringer would not instantaneously be able to achieve the level of sales and market presence it achieved immediately prior to the expiration of the patent had it begun its selling and marketing efforts only after the patent expires. Therefore, the infringer who simply continues its sales after the patent expires has an advantage in the market at the expense of the patentee, by virtue of its prior infringement.
10. The patentee would be expected to make greater post-expiration sales (and thus also greater profits) where it faces a new entrant than where it faces an entrenched seller. In consequence, the patentee likely will suffer damages from lost sales during the post-expiration period stemming precisely from infringing activities and sales during the life of the patent. These are termed damages from accelerated market entry, and are well-recognized as valid measures of damages in patent infringement litigation.³

³ See Raymond S. Sims, Mark P. Johnson, and Timothy J. McKee, "Economic Damages after Patent Expiration: Accelerated Market Entry," *Intellectual Property*, Illinois State Bar Association, February

11. Damages from accelerated market entry are no less tangible and, in principle, no more difficult to quantify than any other form of damages. As with lost profits generally, the patentee must prove that it would have made some portion of the infringer's sales. The patentee also must prove the incremental profit it would have earned on those sales. The only additional feature that is present in the context of damages from accelerated market entry is that some of the sales that the patentee would have made but for the infringement occur after expiry of the patent. Damages estimation then necessarily involves estimating the infringer's post-expiration sales had it started from zero upon the date of patent expiry, and comparing these with the infringer's actual or projected sales.⁴
12. The economic theory and practice of patent damages thus cannot support the Defendants' position that damages must cease on the day the patent expires. Such a position would only be tenable if, in the absence of infringement, the infringer would upon entering the market have instantaneously attained the share of the market that it actually held (as a result of its infringing activities) at the time the patent expired. Yet that situation would be rare in most industries and markets, and should not be considered the norm. It would be especially unlikely to arise in

1991, Vol. 30, No. 2. Updated and reprinted in *Intellectual Property Litigation*, American Bar Association, Section of Litigation, Committee on Intellectual Property Litigation, June 1991, Vol. III, No. 3. See also *BIC Leisure Products Inc. v. Windsurfing International Inc.*, 687 F. Supp. 134 (S.D.N.Y. 1988), pp. 137-138; *TP Orthodontics, Inc. v. Professional Positioners, Inc.*, 1990 U.S. Dist. LEXIS 15219; 17 U.S.P.Q.2d (BNA) 1497 (E.D. Wis. 1990), pp. *29-*34; *Amsted Industries Incorporated v. National Castings, Inc.*, 1990 U.S. Dist. LEXIS 8553; 16 U.S.P.Q.2d (BNA) 1737 (N.D. Ill. 1990), pp. *56-*68.

⁴ Entry by other sellers following patent expiration complicates the issue slightly but does not change the basic logic of damages from accelerated market entry. Suppose that a third party seller enters following expiration of the patent and gains a substantial market share, and that this seller would also have entered but for the infringement. As long as (i) the infringer continues to make post-expiration sales; (ii) the infringer would have made fewer sales, but for the infringement; and (iii) the patentee would have made more sales, but for the infringement, then we can infer that some of the infringer's post-expiration sales are at the patentee's expense.

the pharmaceutical industry, where physicians and consumers tend to adopt new or alternative products only gradually.⁵

13. It is also particularly unlikely in this case, because consumers would need to be made aware of the availability of the product from the Defendants. For example, assuming the patent-in-suit is valid and infringed, patients that attempted to fill a prescription for Zocor (Merck's branded simvastatin product) through the Defendants any time prior to December 23, 2005 should have been told that neither Zocor nor a generic equivalent was available from them. Those patients, therefore, would have bought (or would have continued to buy) Merck's branded Zocor from U.S. pharmacies. Patients would need to have personal knowledge of the availability of Zocor or a generic equivalent from one of the Defendants before they would be motivated to purchase from one of these alternative (albeit non-approved⁶) sources. Since most patients are not aware of the date on which a patent (or other form of exclusivity) expires, it is likely (if not certain) that not all of these patients would immediately turn to the Defendants to obtain non-approved Zocor or generic simvastatin products. This is particularly true in this case because Zocor is indicated for chronic therapy, which means that many of the filled prescriptions will be refills. But for the infringement, some patients who have been using Zocor over a long period of time may have been more likely to continue purchasing Zocor rather than switching immediately to a non-

⁵ See e.g., Andrea Coscelli, "The Importance of Doctors' and Patients' Preferences in the Prescription Decision," *Journal of Industrial Economics*, Vol. XLVIII, 2000, pp. 362-363, 368; Ernst R. Berndt, Robert S. Pindyck, and Pierre Azoulay, "Consumption Externalities and Diffusion in Pharmaceutical Markets: Antiulcer Drugs," *Journal of Industrial Economics*, Vol. LI, 2003, pp. 268-269.

⁶ Non-approved simvastatin would include any simvastatin manufactured outside of the U.S. and not approved by the FDA for use in the U.S. .

approved generic simvastatin product. Therefore, it is likely (if not certain) that Merck would continue to satisfy the needs of at least some of those patients with branded Zocor.

14. In addition, Merck and MSD allege that some of the Defendants' customers have purchased non-approved branded Zocor manufactured by Merck Frosst Canada, Ltd. instead of the non-approved generic equivalent product. This would tend to suggest that these customers are not predisposed to the generic product, and may have continued to purchase branded Zocor following patent expiration, but for infringement by the Defendants.
15. Note that this discussion assumes that the Defendants are able to continue selling the non-approved products upon expiration of the patent-in-suit, although I understand this is unlawful given the lack of FDA approval for the products they are selling. In addition, I understand that, even after the patent-in-suit expires, Zocor will continue to be the only FDA-approved simvastatin product available on the market for at least six months, in accordance with certain provisions of the Hatch Waxman Act, under which the FDA would not be able to approve a generic product for a period of 180 days after the patent expiration. Thereafter, other generic producers may enter the market upon receiving FDA approval. The impact of the entry by non-infringing generic sellers (as well as their inability to compete with Defendants during the six month exclusion period) will be accounted for in the determination of sales that are lost after the expiration of the patent-in-suit but due solely to the Defendants' infringement.

III. Required Information

16. I understand that Merck and MSD allege that the Defendants have infringed the patent-in-suit by selling into the U.S. generic simvastatin obtained from Canadian suppliers, and/or reselling Zocor manufactured by Merck Frosst Canada Ltd. (Merck's Canadian affiliate). To assess whether it is appropriate to award damages from accelerated market entry, it is necessary to determine the sales Merck would have made in the post-expiration period but for the Defendants' infringement. This necessitates estimating the sales that the Defendants would have made in the U.S. and the rate at which the sales would grow had they waited until expiration of the patent-in-suit and begun selling generic simvastatin at that time.
17. Information relating to the Defendants' actual historical experience selling into the U.S. is relevant here. Of key importance would be any information speaking to difficulties the Defendants faced in establishing a market presence in the U.S., or any concerns the Defendants may have had relating to entry into the U.S., whether due to a lack of seller recognition on the part of consumers; a lack of immediate acceptance of the non-approved simvastatin products sold by the Defendants (including branded products sold outside of the typical channels of distribution); or for other reasons. It would also be relevant to consider any marketing and promotional steps taken by the Defendants to facilitate entry into the U.S., and any strategies that were discussed but ultimately not adopted. Similarly, information addressing the Defendants' customer relationships, covering issues such as the means by which the Defendants have acquired new

customers, and the ease or difficulty with which existing customers are retained, would be relevant.

18. Also probative would be any information relating to the Defendants' views on the timing of entry into the U.S. market. In this regard, documents in the possession of the Defendants may provide information on the perceived importance of early entry into the U.S. market in comparison to waiting until patent expiration, at which time other approved generic alternatives may become available.

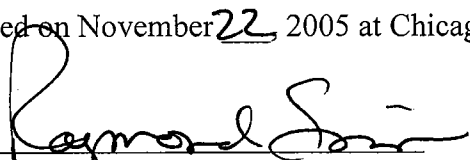
Documents may also reveal a concern with other aspects of the U.S. market that may have been expected to change between the date of actual entry and the date of patent expiration, and that would have had a material impact on a seller's post-entry prospects.

19. It should be noted that the above-mentioned information is by no means intended to substitute for the basic information and data required under any patent damages analysis, including, *inter alia*, detailed data on product sales (units and revenues by detailed product category) and costs (incremental costs of acquiring and selling additional units, as well as fixed costs of operation). The data must be sufficient to identify the growth in the Defendants' sales of Zocor or generic simvastatin products over time. For example, the data must show whether the Defendants' sales have increased from zero to a stable level or whether they are still in the process of growing, and, moreover, the rate of increase over the time period subsequent to first infringement. In addition to this basic information over the period of the patent's life, however, it is necessary to review actual product sales

and cost data for the post-expiration period (when these become available) as well as any forecasts and projections that may exist concerning future sales and costs.

20. I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 22, 2005 at Chicago, Illinois



Raymond S. Sims

TAB 1



INTERNATIONAL

RAYMOND S. SIMS

Vice President

M.B.A., Northwestern University,
J.L. Kellogg Graduate School of Management

B.Comm., University of Calgary

Mr. Sims has consulted to a wide variety of business and industrial clients, as well as governmental agencies on engagements involving valuation, negotiation strategy, accounting, financial and statistical analysis and modeling. Much of this work involves interpreting and projecting data and evaluating the economic impact of business decisions, transactions and/or economic events. Mr. Sims frequently advises companies and their counsel regarding damages issues in commercial litigation and also has provided consulting assistance in connection with arbitration and criminal antitrust proceedings. He has served as expert witness or consultant in a wide range of litigation, including patent, copyright and trademark infringement, dealership termination, commercial contract disputes, antitrust, theft of trade secrets, breach of fiduciary duty and securities violation cases. While the issues have varied from case to case, most included an analysis and evaluation of financial data for the purpose of determining the extent of damages. Other engagements have involved analysis of accounting, production, and financial data for the purpose of assessing liability or causation.

EXPERIENCE

1999–Present *Vice President, CRA International*

1994–1999 *Vice President, Economic Consulting Group, A.T. Kearney, Inc.*

1980–1994 *Partner, Dispute Analysis and Corporate Recovery Services, Price Waterhouse*

1976–1978 *Manager of Finance and Accounting, Sims Holdings Ltd.*

SPEECHES AND PUBLICATIONS

“Court of Appeals Affirms Unprecedented Decision Regarding Patent Infringement Damages, Broadens Definition of Acceptable Non-Infringing Substitute.” With John R. Bone and Peter Baldwin. *Mealey’s Litigation Report—Intellectual Property*, November 19, 1999.

“Managing Technology Transfer to Maximize Shareholder Value.” Material for presentation given to Licensing Executives Society, June 27, 1997.

"The Role of Litigation in Intellectual Property Management." With Mark Banner. Workshop conducted at annual meeting of The Licensing Executives Society, October 2, 1996. (Also presented with John Bone to New York chapter of the Licensing Executives Society, November 11, 1996).

"How to Maximize (or Minimize) Damage Awards with Winning Presentation Techniques." With Granger Cook, Jr. Presentation to the American Conference Institute conference on Jury Trials in Patent and High Tech Litigation, April 22, 1996.

"Conducting an Intellectual Property Audit." Presentation given to American Bar Association, Section of Intellectual Property Law, April 6, 1995.

"Assessing and Valuing Intellectual Property." With Joseph H. Ballway, Jr. Presentation given to Practising Law Institute conference, February 8, 1995.

"Determining a Reasonable Royalty in a Litigation Context." Materials for workshop at annual meeting of the Licensing, Executives Society, October 19, 1994.

"Licensing and Technology Valuation." Moderator of panel discussion at Price Waterhouse Intellectual Property conference, February 25, 1994.

"Patent Infringement Damages." Presentation to the Southwest Legal Foundation's Twenty-Ninth Annual Institute on Patent Law, November 1991, Dallas, Texas.

"Economic Damages After Patent Expiration: Accelerated Market Entry." With M.P. Johnson and T. J. McKee. *Intellectual Property*, Illinois State Bar Association, February 1991, Vol. 30, No. 2. Updated and reprinted in *Intellectual Property Litigation*, American Bar Association, Section of Litigation, Committee on Intellectual Property Litigation, June 1991, Vol. III, No. 3.

"Forensic Accounting and Litigation Consulting Services." With J.H. Kinrich and M.F. Reiss. *Accountants' Handbook*, Seventh Edition, John Wiley & Sons, New York, 1991.

"Financial Experts and Commercial Litigation." With M.W. Haller. National Institute for Trial Advocacy, Program Planner's Guide, Program: "Using Financial Experts in Business Litigation," 1989.

"Lost Profits: Covering All the Bases in the 'But For' World." With M.W. Haller. *Inside Litigation*, February 1988, Volume 2, No. 4; reprinted in *The Computer Lawyer*, February 1988, Vol. 5, No. 2.

"Computerized Bankruptcy Planning Model." *Legal Tech Newsletter*, June 1983, Volume 1, No. 3.

ASSOCIATIONS

Licensing Executives Society, Member

TAB 2



INTERNATIONAL

RAYMOND S. SIMS

Vice President

Deposition Testimony

Case	Court	Year	Type
Roboserve, Inc. v. Hilton International Corporation	State Court, Dade County, FL	1998, 2001	Contract damages
Telefonix v. MBM Technologies	Federal Court, Chicago, IL	2000	Patent infringement damages
Mosel Vitelic Corp. v. Micron Technology Corp.	Federal Court, Wilmington, DE	2000	Patent infringement damages
Avery Dennison v. Acco Brands	Federal Court, Los Angeles, CA	2000	False advertising and unfair competition damages
Anchor Gaming v. Acres Gaming	Federal Court, Las Vegas, NV	2000	Patent infringement damages
Serta, Inc. v. Simmons Co.	Federal Court, Chicago, IL	2000	Patent infringement damages
Bristol-Myers Squibb v. Par Pharmaceutical, Inc.	Federal Court, New York, NY	2000	Antitrust damages
Bristol-Myers Squibb v. Rhone Poulenc Rhorer	Federal Court, New York, NY	2000, 2001	Patent infringement damages
Acres Gaming v. Mikohn, et al.	Federal Court, Los Angeles, CA	2000	Patent infringement damages
F&G Scrolling v. Key Tronic, Inc.	Federal Court, Seattle, WA	2000	Patent infringement damages
Great Lakes Chemical Corp. v. Archimica SpA	Federal Court, Wilmington, DE	2001	Patent infringement damages
Fort James Corp. v. Solo Cup Company	Federal Court, Milwaukee, WI	2001	Patent infringement damages
NCR Corporation v. Netscape Communications Corp.	Federal Court, Wilmington, DE	2001	Patent infringement damages
NSC Technologies, a division of Great Lakes Chemicals, Inc. v. Lonza, Inc.		2001	Breach of contract damages

Novartis Pharmaceuticals Corporation v. Abbott Laboratories	Federal Court, Wilmington, DE	2001	Patent infringement damages
Novartis Pharmaceuticals Corporation v. Eon	Federal Court, Wilmington, DE	2001	Patent infringement damages
Eli Lilly and Company v. Zenith Laboratories, Inc.	Federal Court, Southern District, IN	2001	Patent infringement damages
Perkin-Elmer Corporation v. Micromass, Inc.	Federal Court, Wilmington, DE	2002	Patent infringement damages
American National Can v. Continental PET Technologies	Federal Court, Hartford, CT	2002	Patent infringement damages
Edwards Life Sciences Corp. and Edwards Life Sciences, LLC v. Medtronic, Inc.	Federal Court, Wilmington, DE	2002	Patent infringement damages
Cigarettes Cheaper! v. R.J. Reynolds Tobacco Company	Federal Court, Chicago, IL	2002	Antitrust damages
Science Applications International Corp. v. Petris Technology, Inc.	Federal Court, Alexandria, VA	2002	Copyright infringement damages
International Truck and Engine Corporation v. Haden Schweitzer Corporation	American Arbitration Association	2002	Breach of contract damages
Polymasc v. Alza	Federal Court, Wilmington, DE	2002	Patent infringement damages
Sceon Lighting Systems, Inc. and Sceon Lighting Technologies, Inc. v. Snap-On, Inc.	American Arbitration Association	2002	Breach of contract damages; lost profits
Verizon California, Inc. v. Ronald A. Katz Technology Licensing, L.P.	Federal Court, Central District of CA	2003	Patent infringement damages
Oakwood Laboratories, L.L.P., et al. v. TAP Pharmaceutical Products, Inc.	Federal Court, Chicago, IL	2003	Patent infringement damages
Semitool, Inc. v. Novellus Systems, Inc.	Federal Court, District of Oregon	2003	Patent infringement damages
TruePosition and KSI, Inc. v. Allen Telecom	Federal Court, Wilmington, DE	2003	Patent infringement damages
Intertott Technologies v. Pollard Bank Note Ltd., et al.	Federal Court, Cleveland, OH	2003	Patent infringement damages
Agere Systems, Inc. v. Atmel Corp.	Federal Court, Eastern District, PA	2003	Patent infringement damages
Semitool, Inc. v. Applied Materials, Inc.	Federal Court, District of Oregon	2003	Patent infringement damages
Tact Medical Instruments, Inc. v. Biomet Orthopedics, Inc.	Federal Court, Northern IN, Hammond Division	2003	Breach of contract

National Steel Car, Ltd. v. Canadian Pacific Railway	Federal Court, Northern IL, Eastern Division	2003	Patent infringement damages
Foodcomm International v. Patrick Barry, Christopher Leacy, Outback Imports, Inc. and Empire Beef Company, Inc.	Federal Court, Northern IL, Eastern Division	2004	Business interference/breach of fiduciary duty damages
Dr. Sakharam D. Mahurkar v. C.R. Bard, Inc., Bard Access System, Inc. and Bard Healthcare Systems, Inc.	Federal Court, Northern IL, Eastern Division	2004	Patent infringement damages
The Topps Company, Inc. v. Cadbury Stani SAIC, f/k/a Productos Stani Sociedad Anonima Industrial Y Commercial	Federal Court, Southern District of New York	2004	Breach of contract/ misappropriation of technology
Verizon California, Inc. v. Ronald A. Katz Technology Licensing, L.P.	Federal Court, Central District of California	2004	Patent infringement damages
Ormco Corporation v. Align Technology, Inc.	Federal Court, Central District of California	2004	Patent infringement damages
Hamilton Sundstrand Corporation v. Honeywell International, Inc.	Federal Court, District of Arizona	2004	Patent infringement damages
The Coca-Cola Company v. PepsiCo, Inc., Pepsi-Cola Company, Rapak, LLC and DSS Rapak, Inc.	Federal Court, Northern District of Georgia, Atlanta Division	2004	Patent infringement damages
Avid Identification Systems, Inc. v. Allflex USA, Inc. and Pethealth Services (USA) Inc.	Federal Court, Western District of Wisconsin	2004	Patent infringement/unfair competition damages
Symantec Corp. v. Computer Associates International, Inc.	Federal Court, Eastern District of Michigan, Southern Division	2004	Patent infringement
Cordis Corporation v. Boston Scientific Corporation and Scimed Life Systems, Inc.	Federal Court, District of Delaware	2005	Patent infringement
Thomas Industries, Inc. v. Gast Manufacturing, Inc.	Federal Court, Western District of Wisconsin	2005	Patent infringement
Federal Express Corporation v. Accu-Sort Systems, Inc.	Federal Court, Western District of Tennessee	2005	Theft of trade secrets
ITT Manufacturing Enterprises, Inc. v. Samsung Electronics America, et al.	Federal Court, District of Delaware	2005	Patent infringement
Mandy H. Haberman v. Playtex Products, Inc., et al.	Federal Court, Western District of Wisconsin	2004	Patent infringement

Trial Testimony

Case	Court	Year	Type
Novo Nordisk v. Becton Dickinson	Federal Court, New York, NY	2000	Patent infringement damages
Great Lakes Chemical Corp. v. Archimica SpA	Federal Court, Wilmington, DE	2001	Patent infringement damages
Acres Gaming v. Mikohn, et al.	Federal Court, Las Vegas, NV	2001	Patent infringement damages
Snap-On tools v. Ronald Ortiz, et al.	Arbitration Hearing, Chicago, IL	2001	Breach of contract; fraud damages
F&G Scrolling v. Key Tronic, Inc.	Federal Court, Seattle, WA	2001	Trade secrets damages
Perkin-Elmer Corporation v. Micromass, Inc.	Federal Court, Wilmington, DE	2002	Patent infringement damages
Novartis Pharmaceuticals Corporation v. Abbott Laboratories	Federal Court, Wilmington, DE	2002	Patent infringement damages
TA Instruments v. The Perkin-Elmer Corporation	Federal Court, Wilmington, DE	2002	Patent infringement damages
Fort James Corp. v. Solo Cup	Federal Court, Milwaukee, WI	2002	Patent infringement damages
International Truck & Engine v. Haden Schweitzer	American Arbitration Assn., Chicago	2003	Contract damages
Roboserve, Inc. v. Hilton International Corp.	State Court, Dade County, FL	2003	Contract damages
Sceon Lighting Systems v. Snap-On, Inc.	American Arbitration Assn., Chicago	2003	Contract damages
Goss International Corporation v. Tokyo Kikai Seisakusho, Ltd. and TKS (U.S.A.), Inc.	Federal Court, Northern District of Iowa, Cedar Rapids Division	2003	Illegal dumping
Semitool, Inc. v. Applied Materials, Inc.	Federal Court, District of Oregon	2004	Patent infringement damages
Biomet, Inc. v. Tact Medical	Federal Court, Northern District of Indiana	2004	Contract damages
Agere Systems, Inc. v. Atmel Corp.	Federal Court, Eastern District, PA	2005	Patent infringement damages
The Coca-Cola Company v. Pepsico, Inc., Pepsi-Cola Company, Rapak, LLC and DSS Rapak, Inc.	Federal Court, Northern District of Georgia, Atlanta Division	2005	Patent infringement damages