

UNM prevails against Knight/Scallen in lawsuit on patents

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Federal Circuit Court concludes "...Knight's Response contains multiple amorphous and illogical arguments that do not pertain to the issue of royalties."

The Albuquerque Tribune reported on Nov. 11th, 2004 that "The most expensive, most contentious and longest court battle involving the University of New Mexico and its scientists is over. A federal appeals court this week upheld a 2001 trial court decision giving UNM ownership of a potential cancer cure discovered two decades ago in a campus laboratory. 'We do consider this the end of the litigation,' said Charles N. 'Nick' Estes Jr., university counsel emeritus. The university spent approximately \$541,000 on the case. Of that amount, \$85,000 was spent on appeals. 'Undoubtedly, it was the most expensive case and the longest,' Estes said. 'It was in a class by itself.' The U.S. Court of Appeals for the Federal Circuit on Tuesday affirmed UNM's rights to the patents on the discoveries and ordered two former UNM scientists to pay \$63,887.33 in court costs for the four-year legal battle. ..."

Source:

http://www.abqtrib.com/archives/news04/111104_news_payfees.shtml

There is more information on the resolution of this case in the proceedings of the U.S. Court of Appeals for the Federal Circuit, at <http://fedcir.gov/opinions/04-1281.pdf> . Here is a key finding by the court:

With respect to Knight's royalties claim in particular, the district court granted summary judgment in favor of the University dismissing the claim due to Knight's lack of evidence. Regents of the Univ. of N.M. v. Knight, No. CIV 99-577 (D.N.M. Jan. 8, 2004) (Mem. Op. & Order). In granting summary judgment, the district court noted that the University argued that it did not owe Knight royalties until the patents produced a net income, which the University asserted had

not yet occurred. Id. The district court held that Knight had not raised a material issue of fact challenging these assertions, stating, 'Instead, Knight's Response contains multiple amorphous and illogical arguments that do not pertain to the issue of royalties.' Id., slip op. at 6. Knight has not directed this court to any evidence that a material issue of fact existed precluding summary judgment or that the district court incorrectly applied the law in reaching its decision. ... CONCLUSION For the above reasons, Scallen and Knight's arguments presented on appeal are without merit. Thus, we affirm the district court's dismissal of Scallen and Knight's counterclaims and award of costs.

Regards, Th. Huxley, Esq.