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Jury: Johnson & Johnson stole patent from Fla. cancer specialists

The Associated Press

ATLANTIS, Fla. Johnson & Johnson stole a patent for an implant used in breast cancer detection from two Florida breast cancer specialists, according to a federal jury who ordered the company to pay the pair \$2 million.

The New Jersey-based company must also agree to give Atlantis surgeon John Corbitt and physician assistant Lori Leonetti 10 percent of an estimated \$39 million in annual revenue from the implant if Johnson & Johnson wants to continue selling it, the Miami jury said Wednesday in its verdict.

Officials from Ethicon Endo-Surgery Inc., a Johnson & Johnson subsidiary, said in a statement that they don't believe any patent laws had been violated, and they would consider an appeal.

"I'm feeling very vindicated," Leonetti said. "It makes me feel great inside just to know that a jury found that what they did was wrong and they're going to have to pay for it."

Corbitt and Leonetti developed their idea for the implant to mark where a woman had breast tissue removed for a biopsy, so that doctors could monitor the area for potential health problems, they said.

The pair secured a patent for the implant, and spent two years in the late 1990s talking with Johnson & Johnson about manufacturing or marketing it, they said.

The company later bought California-based Artemis Medical Inc., which was selling a similar implant by another doctor whose patent wasn't valid because it was approved months after the one Corbitt and Leonetti obtained, said Jack Scarola, Corbitt and Leonetti's attorney.

Johnson & Johnson continued marketing the implant even though the company knew Corbitt and Leonetti held the valid patent, Scarola said.

Information from: The Palm Beach Post,

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**WEST PALM BEACH DOCTOR, ASSISTANT TRIUMPH OVER JOHNSON &
JOHNSON SUBSIDIARY IN MEDICAL DEVICE PATENT CASE**

West Palm Beach Attorneys Lead Effort against Corporate Giants

Miami (September 27, 2005) – Dr. John Corbitt, a West Palm Beach surgeon, and physician's assistant Lori Leonetti, patent holders for a breast biopsy marker device, prevailed over a Johnson & Johnson subsidiary in U.S. District Court in Miami, in a patent infringement suit today. The jury awarded them \$2 million, and opened the door for millions more in licensing, damages, attorney's fees and costs. Attorneys Jack Scarola and Bill King of West Palm Beach law firm Searcy Denney Scarola Barnhart & Shipley, along with Joe Beckman of Stuart Florida, successfully argued the case on behalf of the patent holders.

Corbitt and Leonetti held a patent on a \$75 per unit breast biopsy marker device which they proved Ethicon Endo-Surgery, Inc., a subsidiary of Johnson & Johnson, infringed upon. Since January 2002, Ethicon Endo-Surgery, Inc. had sold more than \$19 million in biopsy marker devices.

"This is a huge win for the little guy," said attorney Jack Scarola. "Corporate giants like Johnson & Johnson think they can steamroll small patent holders with their enormous clout, deep pockets and armies of lawyers. I'm encouraged by today's decision."

In siding with Corbitt and Leonetti, the jury awarded the plaintiffs 10 percent, or roughly \$2 million, in past sale royalties. In addition, the jury found that the Johnson & Johnson subsidiary willfully infringed upon the patent holder, and can be subjected to treble damages, plus attorney's fees and costs. The most significant consequence of the jury's verdict is that Johnson & Johnson and Ethicon Endo-Surgery can no longer sell marker devices without first gaining a license agreement from White Water Inc., the company owned by Corbitt and Leonetti.

For more information about the case, please contact Greg Wilson, 571-239-7474 or Jack Scarola, 561-889-9536 (cell) or 561-575-2427 (home).

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SOURCE: Searcy Denney Scarola Barnhart & Shipley