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# Top Verdicts



THE LARGEST AND MOST SIGNIFICANT VERDICTS  
AND APPELLATE REVERSALS IN CALIFORNIA IN 2019

## Top Verdicts

The largest and most significant verdicts and appellate reversals in California

### TOP PLAINTIFFS' VERDICT BY DOLLAR

# ASML US Inc. v. XTAL Inc.

A legal team led by Patrick M. Ryan, with Bartko, Zankel, Bunzel & Miller, persuaded a Santa Clara County Superior Court judge to finalize an \$845 million award to ASML, a Dutch semiconductor chip processing software company after it sued XTAL in a trade secrets case.

XTAL was founded in 2014 by two former employees of ASML's subsidiary Brion Technologies in Santa Clara. The lawsuit alleged that then-ASML employees secretly worked for XTAL and stole trade secrets and other confidential information. The lawsuit also claimed those workers helped XTAL obtain a multi-million-dollar contract with one of ASML's largest customers, and that XTAL would not have been able to develop the same products and technology without ASML's information.

"One thing that's always a challenge in a trade secret or intellectual property trial is the need to make complex technology simple and easy to understand for the jury," Ryan said. "Over the course of the trial, we really went through the technology and explained how it worked and why it was important, and the jury really got it."

Witnesses were called and animations were created to explain complex technology for the jury, Ryan said.

The defense argued that XTAL didn't take any trade secrets from ASML, and even if XTAL did, the information wasn't used. The XTAL legal team, led by Donald J. Putterman with George E. Chikovani and Constance J. Yu of Putterman + Yu LLP also argued ASML did not make reasonable efforts to protect its trade secrets.

The jury disagreed with XTAL, finding ASML had indeed reasonably protected its trade secrets.

"The law does not require companies to use best practices to protect their trade secrets. Rather they need to be reasonable under the circumstances," Ryan said. "For example, a company could completely lock its employees in a vault



PATRICK M. RYAN

with little chance of data being shared outside of the company. But productivity and innovation would be stifled. A company's policies and procedures need to take into account the unique business environment within which they operate; they need not be overly restrictive."

During the trial, Ryan and his legal team argued XTAL saved hundreds of millions of dollars in research and development costs by pilfering ASML's trade secrets.

The jury returned a verdict in November 2018, in favor of ASML but XTAL filed for bankruptcy the next month. Judge Sunil R. Kulkarni finalized the verdict in May 2019. Saved research and development costs were calculated and included in the damages award.

The judgment was largely uncollectible on

*case* INFO

**Trade secrets**  
**Santa Clara County Superior Court Judge Sunil R. Kulkarni**  
**\$845 million**

**Plaintiff's lawyers:** Patrick M. Ryan, Stephen C. Steinberg, Sean R. McTigue, Brian A.E. Smith, Joseph J. Fraresso, Alden K. Lee, Chad E. DeVeaux, Bartko, Zankel, Bunzel & Miller APLC

**Defense lawyers:** Donald J. Putterman, George E. Chikovani, Constance J. Yu, Putterman + Yu LLP

account of XTAL's bankruptcy. But XTAL was required to transfer most of its intellectual property to ASML.

Putterman Yu said it no longer represents XTAL. Putterman Yu declined to comment further.

Ryan said that the amount of the judgment sends a powerful message.

"This was an absolute and total victory for ASML. And the saved-research-and-development damages model used in our case can serve as a roadmap for other innovative technology companies pursuing theft of trade secret actions against companies who have not yet fully monetized the stolen technology."

—Henrik Nilsson

# Top 10 Plaintiffs' Verdicts by Dollar

Dollar Amount	Case Name	Type of Case	Court	Judge(s)	Plaintiffs' Lawyers	Defense Lawyers
\$2.055 billion	Pilliod et al. v. Monsanto Co.,	Product liability	Alameda County	Superior Court Judge Winifred Y. Smith	Baum, Hedlund, Aristei & Goldman PC, R. Brent Wisner, Pedram Esfandiary, Michael L. Baum; The Miller Law Firm LLC, Michael J. Miller, Curtis G. Hoke, David J. Dickens, Jeffrey Travers; Audet & Partners LLP, Mark E. Burton Jr.; Brady Law Group, Steven J. Brady	Goldman Ismail Tomaselli Brennan & Braun LLP, Tarek Ismail, Joe Tomaselli; Evans Fears & Schuttert LLP, Kelly A. Evans, Jay J. Schuttert; Hollingsworth LLP, Kirby Griffis, Martin C. Calhoun; Hinshaw & Culbertson LLP, Eugene Brown Jr., Ameer A. Mikacich
\$845.114 million	ASML US Inc. v. XTAL Inc.	Trade secrets misappropriation, breach of fiduciary duty	Santa Clara County	Superior Court Judge Sunil R. Kulkarni	Bartko, Zankel, Bunzel & Miller APLC: Patrick M. Ryan, Stephen C. Steinberg, Sean R. McTigue, Brian A.E. Smith, Joseph J. Fraresso, Alden K. Lee, Chad E. DeVeaux	Putterman + Yu LLP: Donald J. Putterman, George E. Chikovani, Constance J. Yu
\$752 million	Juno Therapeutics Inc. et al. v. Kite Pharma Inc.	Patent infringement	Central District	U.S. District Judge S. James Otero	Irell & Manella LLP, Morgan Chu, Alan J. Heinrich, Crawford M. Wells, Elizabeth C. Tuan, Michael Fleming, Rebecca L. Carson, Ingrid Peterson; Jones Day, Andrea Weiss Jeffries, Sarah A. Geers	Munger, Tolles & Olson LLP, Jeffrey I. Weinberger, Edward G. "Ted" Dane, Blanca F. Young, Garth T. Vincent, Peter E. Gratzinger, Graham B. Cole; Fish & Richardson PC, Geoffrey D. Biegler, Gregory R. Booker, Megan A. Chacon, Grant T. Rice, Lance E. Wyatt
\$267.349 million	McMillon et al. v. Rash Curtis & Associates	Telephone Consumer Protection Act violations	Northern District	U.S. District Judge Yvonne Gonzalez Rogers	Bursor & Fisher PA, Scott A. Bursor, L. Timothy Fisher, Yeremy O. Krivoshey, Blair E. Reed	Ellis Law Group LLC, Andrew M. Steinheimer, Mark E. Ellis, Lawrence K. Iglesias, Anthony Paul J. Valenti
\$178.965 million	Wark Entertainment Co. et al. v. Twentieth Century Fox Film Corp.	Arbitration, breach of contract, breach of warranty	JAMS, Los Angeles County	Retired Judge Peter D. Lichtman, as neutral	Kasowitz, Benson & Torres LLP, John V. Berlinski, Daniel A. Saunders, Kimberly A. Meyer	Munger Tolles & Olson LLP, Glenn D. Pomerantz; O'Melveny & Myers LLP, Daniel M. Petrocelli, Molly M. Lens
\$127 million	Google LLC v. Levandowski et al.	Breach of contract, unfair competition	JAMS, San Francisco County	Ret. Judge W. James Ware, Alexander L. Brainerd, Ret. Judge Read Ambler, as neutrals	Keker, Van Nest & Peters LLP, Robert A. Van Nest, Rachael E. Meny, Benjamin W. Berkowitz, Jo W. Golub, Jennifer A. Huber, Reid P. Mullen, Thomas E. Gorman, W. Hamilton Jordan, Molly C. Villagra	Goodwin Procter LLP, I. Neel Chatterjee, Brett M. Schuman; Baker Botts LLP, Jonathan A. Patchen, Cheryl A. Cauley (formerly at Taylor & Patchen LLP – now defunct)
\$113.4 million	Reed v. County of San Bernardino Child Protective Services	Negligence	San Bernardino County	Superior Court Judge Bryan F. Foster	The Vartazarian Law Firm, Steven R. Vartazarian, Matthew J. Whibley	Dolen, Tucker, Popka & Abraham, Raymond F. Dolen; San Bernardino County Counsel's office, Blakney A. Boggs
\$102 million	Magadia et al. v. Wal-Mart Associates Inc. et al.	Wage and hour	Northern District	U.S. District Judge Lucy H. Koh	Diversity Law Group PC, Larry W. Lee, Mai Tulyathan; Polaris Law Group LLP, William L. Marder; Hyun Legal APC, Dennis S. Hyun	Duane Morris LLP, Aaron T. Winn, Natalie F. Hrubos; Wal-Mart Stores Inc., Leigh A. Yeargan
\$80.267 million	Hardeman v. Monsanto Co.	Product liability	Northern District	U.S. District Judge Vince Chhabria	Andrus Wagstaff PC, Aimee H. Wagstaff, Kathryn M. Forgie, David J. Wool; Moore Law Group PLLC, Jennifer A. Moore;	Wilkinson Walsh, Brian L. Stekloff, Julie B. Rubenstein, Rakesh N. Kilaru, Tamarra M. Johnson
\$77 million	Bernstein et al. v. Virgin America et al.	Wage and hour, meal and rest period	Northern District	U.S. District Judge Jon S. Tigar	Olivier Schreiber & Chao LLP, Monique Olivier; Kosinski and Thiagaraj LLP, Alison L. Kosinski, Emily A. Thiagaraj	Morgan, Lewis & Bockius LLP, Robert J. Hendricks, Nancy Villarreal, Brendan T. Killeen

# Congratulations to Patrick M. Ryan & His Team\* for Their \$845 Million Trade Secret Victory



**BARTKO**  
**ZANKEL**  
**BUNZEL**  
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## OUR TRIAL LAWYERS

**Back:** Patrick E. O'Shaughnessy, W. Paul Schuck, Brian A.E. Smith\*,  
Sony B. Barari, Robert H. Bunzel, Marco Quazzo, Joseph J. Fraresso\*

**Middle:** John F. McLean, Kerry L. Duffy, Gabriella A. Wilkins, Alden K. Lee\*, Oliver Q. Dunlap, Jeffrey D. Chen

**Front:** Louise Ann "Luzann" Fernandez, C. Griffith Towle, Elizabeth T. Ferguson, Chad E. DeVeaux\*,  
Patrick M. Ryan\*, Stephen C. Steinberg\*, Kimiko L. Akiya, Michael D. Abraham

**Not Shown:** John J. Barko, Jayne Laiprasert, Sean McTigue\*, Benjamin K. Riley,  
An Nguyen Ruda, Andrew H. Schwartz, Elina Tilman