
NOVA Biomedical Corporation Receives Favorable Decision in Patent License Case

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Hale and Dorr client NOVA Biomedical Corporation recently received a favorable decision in a patent license case, *Yellow Springs Instruments v. NOVA Biomedical Corporation*.

The case concerned the interpretation and enforceability of a patent license agreement and related U.S. patents. NOVA had entered into a license agreement and made initial royalty payments in anticipation of using Yellow Springs' enzyme membrane technology. It was later determined by new management that NOVA had never in fact used the licensed technology but rather developed its own approach to the problem of measuring glucose and lactate in blood analyzers. Consequently, NOVA notified Yellow Springs that it would not be making any further payments under the license agreement. Yellow Springs sued NOVA for breach of contract, conversion, unjust enrichment, and patent infringement, seeking significant royalties.

After a two-week trial, the U.S. District Court for the Southern District of Ohio ruled that NOVA had correctly determined that it had no further obligation to make royalty payments. The court also ruled that Yellow Springs' attempt to obtain royalty payments beyond the term of the patents was unlawful, that Yellow Springs patents were invalid as obvious and for inequitable conduct in failing to disclose highly material prior art to the Patent Office, and that NOVA could not recover the fairly small amount of royalty payments made in the initial years of the license.

The Hale and Dorr attorneys involved in this case included Jack Regan, Jim Lampert and Dan Tighe.