

NEWS RELEASE

US Court of Appeals characterizes Wyatt Technology Corporation Lanham Act claims as “groundless, unreasonable, vexatious or pursued in bad faith”

30 May 2013: Malvern, UK:

Malvern Instruments Inc. has scored a decisive win in the final round of a long-running court battle waged by Wyatt Technology Corporation regarding the sale of Malvern’s Zetasizer Nano range in the US. Wyatt had alleged copyright infringement of software and other materials, false advertising and theft of trade secrets, and sought damages from Malvern in excess of \$25 million (USD). However, Wyatt has ended up having to reimburse Malvern more than \$2 million (USD) in respect of attorneys’ fees and costs.

Paul Walker, Managing Director of Malvern Instruments, welcomed the ruling and said that the lawsuit was founded upon baseless accusations that had been potentially highly damaging to Malvern’s reputation. “In successive rulings Wyatt has been castigated for making claims that lack reasonable factual or legal basis. In the original April 2010 court order for attorneys’ fees, the judge characterized Wyatt’s claims as ‘baseless’, ‘specious’ and ‘groundless and unreasonable’, and suggested that Wyatt’s motive was to use litigation as a tool to unfairly compete with Malvern. We were therefore surprised that Wyatt chose to appeal the summary judgment and award of costs.”

Wyatt first filed the lawsuit against Malvern in December 2007, but in 2010 conceded that it would be incapable of proving its claims. Judgement was entered in favour of Malvern who were also awarded \$2,001,213.56 plus interest for attorneys’ fees and expenses. Both the findings and the award of these costs were appealed by Wyatt.

In a disposition filed on 16 May 2013, the United States Court of Appeals for the Ninth Circuit upheld both the original ruling and the award of costs to Malvern Instruments. In reviewing Wyatt’s Lanham Act claims, the Court found that, given Wyatt’s repeated failure to meaningfully litigate the issues it put before the district court by bringing the lawsuit, it may be said fairly that “plaintiff’s case is groundless, unreasonable, vexatious, or pursued in bad faith”.

Paul Walker continued: “I am delighted that the court’s ruling in favour of Malvern has been completely upheld on appeal, but remain disappointed that Wyatt should have chosen to act in this manner.”

Rulings and dispositions can be found at:

Disposition filed 16 May 2013:

<http://cdn.ca9.uscourts.gov/datastore/memoranda/2013/05/16/10-55343.pdf> (Accessed 21 May 2013)

List of available case documents for 29 July 2009 & 04 February 2010

<http://dockets.justia.com/docket/california/cacdce/2:2007cv08298/403684/> (Accessed 21 May 2013)

Other references

Email wire tapping lands Wyatt in hot water <http://www.law360.com/articles/8976/e-mail-wiretapping-lands-wyatt-in-hot-water> (accessed 21 May 2013)

Malvern and Malvern Instruments are registered trademarks of Malvern Instruments Ltd

For more information on this press release, contact:

For media information please contact:

For media information please contact:

Trish Appleton
Kapler Communications Limited
Phoenix House,
Phoenix Park,
Eaton Socon,
Cambridgeshire,
PE19 8EP, UK

Tel: +44 (0)1480 471059
Fax: +44 (0)1480 471069
trish.appleton@kapleronline.com

Please send sales enquiries to:

Alison Vines
Malvern Instruments Ltd
Enigma Business Park
Groveswood Road
Malvern
Worcestershire
WR14 1XZ, UK

Tel: +44 (0) 1684 892456
Fax: +44 (0) 1684 892789
alison.vines@malvern.com