CLIENT ALERTS & INSIGHTS

Update: Insulet Corp.'s Trade Secrets Jury Award Reduced From $452 Million to $59.4 Million to Avoid Double Recovery

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Following a recent trend to reduce large damages awards in trade secret misappropriation cases, a federal judge in Massachusetts cut Insulet Corp.'s damages award from $452 million to $59.4 million to avoid impermissible double recovery and comply with the Defend Trade Secrets Act ("DTSA").

In August 2023, Insulet, a medical device company, sued a rival company, EOFlow, for misappropriation of Insulet's trade secrets. On Dember 3, 2024, the jury returned a verdict in favor of Insulet finding that EOFlow misappropriated four of Insulet's trade secrets, three of which were willfully and maliciously misappropriated, in creating its insulin patch pump. The jury awarded Insulet $170 million in unjust-enrichment damages and $282 million in exemplary, or punitive, damages, totaling $452 million. Details of this decision may be found here.

After the jury verdict, and in addition to its damages award, Insulet filed a motion to permanently block EOFlow from continuing to sell its products based on the stolen technology. EOFlow argued that Insulet's permanent injunction should not be granted as it would constitute impermissible double recovery since the damages award, in part, compensates Insulet for EOFlow's future profits from the insulin patch product. Chief U.S. District Judge Dennis Saylor IV agreed with EOFlow finding that the damages award calculation was based in substantial part on EOFlow's future, unrealized profits, and an injunction prevents continued selling and future profits. Consequently, allowing both an injunction and the full damages award would constitute an impermissible double recovery.

A district court has the authority to fashion an award to avoid duplicative recovery, and the court allowed Insulet to elect its remedy. In a supplemental post-trial memorandum, Insulet elected for a permanent injunction and a damages award that is not duplicative of the injunction. The court concluded that at least a portion of the avoided costs and exemplary damages award is not duplicative, and therefore, it could award a portion of the damages and grant the permanent injunction. Thus, the court reduced the damages award from $452 million to $59.4 million, inclusive of unjust-enrichment damages and exemplary damages. The court concluded that $25.8 million in unjust-enrichment damages could be awarded as it represented the costs EOFlow avoided in developing the stolen technology itself.

As for the exemplary damages, the court pointed out that punitive damages must be reduced to comply with the DTSA which states, "a court may . . . if the trade secret is willfully and maliciously misappropriated, award exemplary damages in an amount not more than 2 times the amount of the [unjust-enrichment] damages awarded." 18 U.S.C. § 1836(a)(3). Accordingly, an award of exemplary

damages under the DTSA may not exceed two times the unjust-enrichment damages ultimately entered for the plaintiff-not the unjust enrichment determined (but not ultimately awarded) by the jury. The court, therefore, reduced the exemplary damages award to $33.6 million.

The reduction of large trade secrets awards, similar to Insulet's case, is a recent trend in trade secrets cases. Benesch attorneys are paying attention to these recent developments and the interplay between monetary and injunctive relief in these actions. If you have any questions, please reach out to:

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