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MAY 08, 2009

Akin Gump Hit With \$72.6M Malpractice Judgment

UPDATED (4:14 p.m.)

They say everything is bigger in Texas, and that appears to include malpractice awards in the Lone Star state.

Yesterday, a federal jury in San Antonio slapped Akin Gump Strauss Hauer & Feld with a \$72.6 million judgment for botching a patent application filed by a Texas-based company and an inventor.

Akin Gump had been hired in 1995 to handle a series of patent applications for Air Measurement Technologies, a company created by Louis Stumberg Jr. and his partner, James Fulton, who had invented an automatic "man down alarm" for firefighters and other emergency personnel. Stumberg currently lives in San Antonio, and Fulton died in 2001.

In their **complaint**, AMT, North-South Corp., which held a license on the invention, and Stumberg accused the firm of failing to disclose information to the U.S. Patent and Trademark Office. Plaintiffs also accused former Akin Gump partner **Gary Hamilton**, now a name partner at Hamilton & Terrile in Austin, of withholding information with the intent to deceive the PTO.

AMT and Stumberg initially sued six parties for infringement, and received settlements totaling \$9 million.

Darryl Carter, of Glickman, Carter & Bachynsky in Houston who led the team representing AMT, tells the BLT that those settlements were far too low, and the firm "had been settling on the cheap."

After a four week trial in the U.S. District Court for the Western District of Texas, the jury found that Akin Gump was fully responsible for failing to obtain patents on the device. The redacted verdict is available [here](#).

Carter says "the jury got it right." "This was perhaps the most conscientious jury I have ever seen. Even during the really technical aspects of the trial, they were taking notes and paying rapt attention," Carter says. The jury took five days to deliberate.

Carter adds that his clients are pleased with the award. "We originally asked for \$133 million, but the jury gave us \$72.6," Carter says. "Mr. Stumberg is happy with that."

In a statement, Akin Gump says, "A judgment has not yet been entered on the verdict against Akin Gump. However, if a judgment is entered, Akin Gump will appeal because the evidence does not support the jury's verdict."

UPDATE (4:14 p.m.) Hamilton tells the BLT that the case was a complicated one, and he is pleased he wasn't included in the damages award.

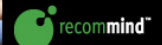
"Despite the allegations, the jury didn't include me. They had the opportunity to include me in the award, and they didn't. I stand by what the jury said," Hamilton says. He declined to comment further.

Posted by Jeff Jeffrey on May 08, 2009 at 02:01 PM in Legal Business | Permalink
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Sounds like Gary Hamilton should be concerned with a potential PTO disbarment. Just because the jury let him off doesn't mean the PTO will.

Posted by: An attorney | May 08, 2009 at 06:22 PM

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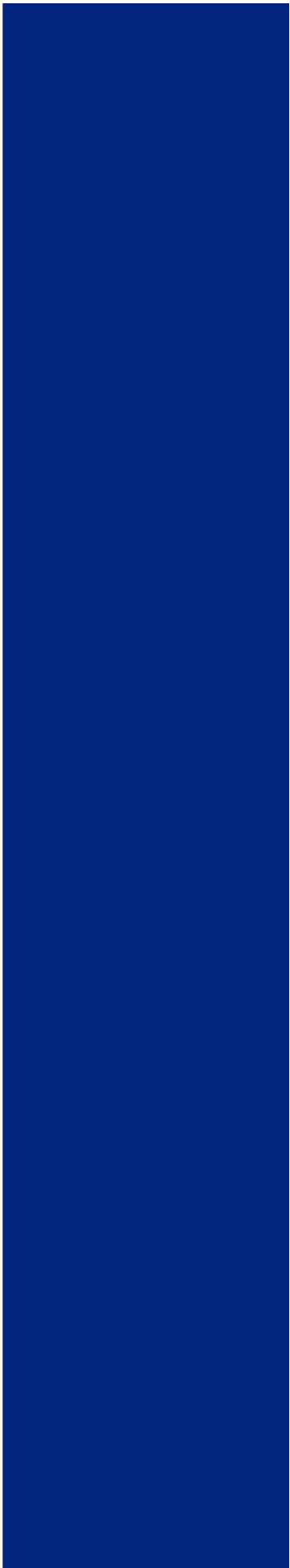
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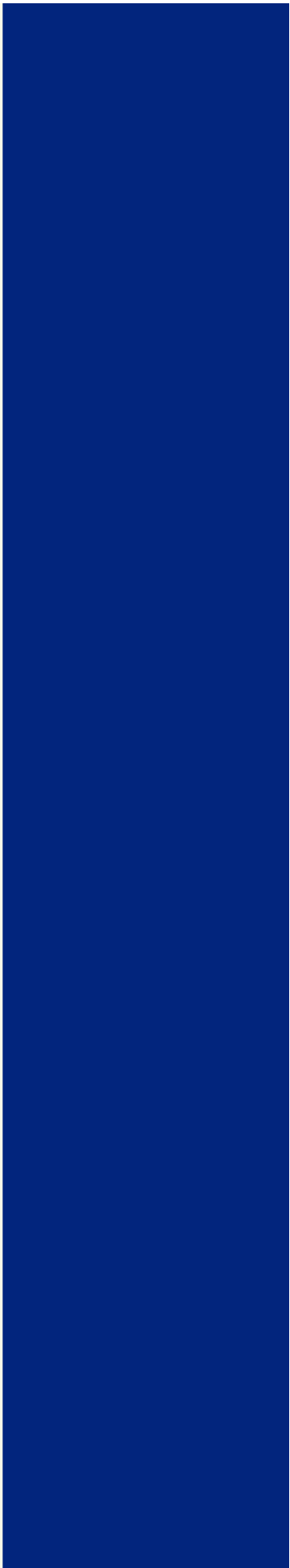
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