

Client wins \$13.1M in suit against attorney

Counsel estimated patent case was worth \$1.3 billion

By Thomas Franz

A patent owner who was told that his patent on a laptop battery device was worth more than \$1 billion is walking away with a significantly smaller amount, and only after he sued his former counsel.

Ed Chung sued Terry Rader of Rader Fishman for legal malpractice after the firm failed to come through with a successful suit of several computer companies. Chung hired Norman A. Yatooma of Yatooma & Associates PC in Bloomfield Hills to complete the malpractice suit.

"There were late filings, totally mismanaged arguments, failure to name witnesses, produce experts, or produce any demonstrative exhibits timely, and then doing things that go way beyond the case," Yatooma said.

Computer trouble

Chung owned a patent on a product that extended laptop battery life, and large companies such as Microsoft and Samsung began using the product for free.

Chung hired Rader to go after the computer companies, and Rader said the patent was worth \$1.3 billion, Yatooma said.

As the case went on, Rader's firm requested to increase the initial fee cap of \$6 million to \$7 million. Chung agreed to this and then to raise it again to \$8 million. However, when the firm



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wouldn't agree to a contingency agreement at that point, Chung was told to find other counsel to finish the case.

Yatooma said Rader Fishman then requested another \$3 million from Chung because they claimed Chung terminated the firm, and that's when Chung decided to file suit against his former counsel.

"They had been paid \$8 million for a miserably failing effort. Had they been willing to accept that \$8 million for delivering no good product for it, they would have never been sued for malpractice," Yatooma said. "The client said they didn't terminate the firm, they told us to find other counsel because they wouldn't continue under the contingency."

Chung wound up hiring a Chicago firm to finish the suit against the computer companies. He was awarded \$19 million, but with a final tab of \$20 million in legal fees, he was at a loss of \$1 million.

Malpractice suit

Yatooma said he told Chung that he had two options for the case, to defend a lawsuit for a \$3-million liquidated damage claim or to instead bring a malpractice suit and defend the \$3 million as a counterclaim.

"As it relates to our defense of the claim, our fundamental storyline was that they wouldn't walk off the case if they believed

in it. Our client didn't terminate the firm, the firm terminated the client," Yatooma said.

Yatooma said Rader Fishman valued Chung's patent case five different times, which he said was very unusual.

"Most law firms don't commit to writing the result they are projecting because there are no guarantees," Yatooma said. "Rader Fishman, however, in writing five different times, valued the case ranging from \$500 million to \$1.2 billion."

The case concluded with the \$3-million liquidated damage claim being dropped, and Chung being awarded \$13.1 million.

"Either they knew the case wasn't worth that much and they were defrauding the client all the while so they would continue paying the attorney fees, or they actually did believe the case was worth a fortune, and only their malpractice diminished the value," Yatooma said.

Defense counsel Michael P. Ashcraft Jr. of Plunkett Cooney in Bloomfield Hills said in an emailed statement, "The events alleged happened more than six years ago. The lawsuit itself was settled months ago. The firm to which the matter referred no longer exists. Nobody with the new firm had anything whatsoever to do with the St. Clair matter."

St. Clair Intellectual Property Consultants Inc. is listed as the plaintiff in the case.

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