

Susman Godfrey Secures Major FRAND Jury Verdict Finding HTC Owes Up to 74 Cents Per Infringing Device for Two Patents Declared Essential to LTE Wireless Standards

A lean three-person trial team from Susman Godfrey secured a unanimous verdict from a Delaware federal jury finding that HTC Corporation infringed two asserted patents declared essential to LTE wireless standards. While HTC urged that damages should be limited to a fair, reasonable and non-discriminatory (“FRAND”) rate of less than two cents per device, the jury sided with SG and its clients – awarding 74 cents for HTC’s devices that infringed both patents. The jury also found that HTC’s infringement was willful, which would enable the court to treble the damages award.

SG clients Orange, S.A. (formerly France Telecom) and 3G Licensing (“3GL”) said the verdict confirmed what the SG team told the jury that the case was about: respect. “Holding out on fair and necessary licensing of patents cannot be a sustainable business decision, which is confirmed by the verdict before the court of the District of Delaware last Monday. We are grateful the jury sided with us, showing that respect should be a leading principle in our business,” said David Muus, Head of Legal Operations for 3GL.

3GL and Orange filed the case in 2017 after HTC refused to take a license during pre-suit negotiations. Over the life of the ensuing case, HTC consistently maintained that the patents in question were not essential to the technology, not infringed, and not valid. At trial, a team from Susman Godfrey co-led by [Andres Healy](#) and [Lexie White](#), argued that HTC’s refusal to voluntarily take a license meant that HTC was not entitled to receive a fair, reasonable, and non-discriminatory (FRAND) discount.

Following a five-day trial, the jury agreed—returning a verdict in around 2.5 hours that HTC owes 3GL and Orange a total of \$8,967,207 in damages. 3GL and Orange also will be entitled to prejudgment interest of more than \$5 million.

“The verdict shows that – while Sisvel never wants to have to resort to litigation – it is willing to do so when necessary to defend its valuable IP,” said Healy. “The verdict also confirms that FRAND is a two-way street. If companies want the benefit of a FRAND rate, they need to negotiate promptly and in good faith. If they don’t, then they should not expect to receive a FRAND discount at trial.”

Each member of the Susman Godfrey team who tried this case played a critical role at trial. Associate [Hunter Vance](#) examined the corporate representative from 3G and played a big role on the damages portion of the case, which was a key issue in this case. SG Partner, Lexie White, handled the opening statement, cross examined HTC’s corporate representative, and delivered the closing argument. And SG partner, Andres Healy, led the infringement arguments, cross-examined HTC’s technical witnesses, and wrapped up the case by providing the rebuttal close. The case is *3G Licensing SA et al. v. HTC Corp.*, case number 1:17-cv-00083, in the U.S. District Court for the District of Delaware.

