

Bartko Firm Pilots Chip Designer to \$223M Trade Secret Verdict

ASML accused rival Xtal of hiring executives and engineers and inducing them to bring computational lithography technology with them.

By Scott Graham

Semiconductor design company ASML US Inc. has scored a \$223 million trade secret verdict against rival Xtal Inc. in Santa Clara County Superior Court.

ASML had accused Xtal of inducing ASML employees to download and convey ASML's computational lithography technology before taking employment with Xtal. Jurors found that Xtal induced six employees to breach their contracts and aided and abetted their breach of the duty of loyalty. The jury also tacked on \$1.2 million related to breach of California's computer fraud statute and found that Xtal acted with malice, fraud and oppression, opening the door for possible punitive damages and attorney fees.

It's a big win for a Bartko, Zankel, Bunzel & Miller team led by partner Patrick Ryan. "I am gratified by the jury's powerful verdict in favor of ASML, which will help secure and protect tremendous hard work and innovation of ASML" and its

employees, Ryan said in a written statement.

Bartko's trial team also included partners Stephen Steinberg and Brian Smith and associates Sean McTigue and Andrew Winetroub.

Computational lithography uses computer models to predict and simulate how microscopic chip patterns will print on physical wafers. ASML is a Dutch company that operates a division in San Jose following its acquisition of Brion Technologies.

According to ASML's complaint, San Jose-based Xtal was founded in 2014 and intentionally populated its roster with former executives and lithography engineers from ASML's Brion division. Xtal allegedly directed some of them to perform work for Xtal while still employed at ASML and to help Xtal woo away customers such as Samsung. ASML also accused the employees of taking ASML source code, programming language scripts and business



(Courtesy Photo)

Patrick Ryan, Bartko Zankel partner

information with them to Xtal.

Xtal was represented by Putterman Landry + Yu. "We disagree with the verdict and are currently planning our response," partner Donald Putterman said.

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