



BARTKO PAVIA LITIGATION TEAM WINS \$223+ MILLION VICTORY FOR ASML IN THEFT OF TRADE SECRETS, BREACH OF FIDUCIARY DUTY, AND COMPUTER FRAUD CASE AGAINST XTAL, INC.

Press Release

28, November 2018

On the evening of November 28, 2018, a jury in Santa Clara Superior Court returned a verdict in favor of ASML on all of its five claims against XTAL, awarding \$223 million on the trade secrets claim, \$135 million for inducing former employees to breach their contracts with ASML, \$169 million for aiding and abetting former employees to breach their duty of loyalty to ASML, and \$1.2 million in forensic investigation costs for breach of California's computer fraud statute (Penal Code Section 502). See a copy of the verdict forms [here](#). The jury also found that XTAL's conduct as to all counts was malicious, which entitles ASML to an award of punitive damages on all counts and attorneys' fees on its Penal Code and trade secret claims. The Court will determine these amounts in post-trial proceedings. ASML's Bartko litigation team was led by [Patrick M. Ryan](#) with a team of other dedicated lawyers, including [Stephen C. Steinberg](#), [Sean R. McTigue](#), [Brian A. E. Smith](#), [C. Griffith Towle](#), Andrew H. Winetroub, Alden K. Lee, [Joseph J. Fraresso](#), and Rishi Gupta. Patrick M. Ryan reacts to the jury's verdict, stating: "I am gratified by the jury's powerful verdict in favor of ASML, which will help secure and protect the tremendous hard work and innovation of ASML and its brilliant and dedicated employees."

XTAL was founded in 2014 at least in part by two former ASML employees, who had worked in ASML's Brion division, which is a leader in the computational lithography space. XTAL had significant financial backing from a consortium of wealthy international investors. While ASML had originally been led to believe that XTAL's business did not include computational lithography, XTAL's business not only encompassed computational lithography, but it unlawfully capitalized on ASML-Brion's innovations in the field.

The lawsuit alleged that XTAL induced ASML employees, who had been entrusted with ASML's most sensitive trade secrets, to secretly work for XTAL, steal trade secrets, and help XTAL obtain a lucrative contract with one of ASML's largest customers. XTAL then used the stolen information to jumpstart its competing computational lithography business, accelerating its development well beyond what would have been possible had it not stolen and used ASML's trade secrets. The stolen trade secrets included ASML's proprietary algorithms as well as source code files.

XTAL made every effort to hide its wrongdoing by doggedly refusing to produce relevant information in discovery and spoliating key evidence. But the Bartko Pavia lawyers persistently pursued discovery and were able to uncover key evidence by obtaining critical Court orders requiring XTAL to turn over its computers, devices, and source code for inspection, which exposed XTAL's massive theft of intellectual property. Bartko Pavia's litigation trial team lead by Patrick M. Ryan is featured in the November 29, 2018 edition of [The Recorder](#), the November 30, 2018 edition of [Law360](#), and the December 3, 2018 edition of the [Daily Journal](#).

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