

FILED

Mar 23 2022

Mark B. Busby
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

COMET TECHNOLOGIES USA INC., a
Delaware corporation, COMET AG, a Swiss
corporation, and YXLON International GmbH, a
German corporation,

Plaintiffs,

v.

XP POWER LLC, a California Limited Liability
Company.

Defendant.

Case No. 20-cv-06408-NC

VERDICT FORM

VERDICT FORM
20-cv-06408-NC

We, the jury, unanimously agree to the answers to the following questions and return them under the instructions of this Court as our verdict in this case.

Question 1: Was Comet the owner of the following information?

Alleged Trade Secret D: Da Vinci RF Generator Control, Digital Measurement, and Software Yes ☒ No ☐

Alleged Trade Secret E: Next Generation RF Matching Network Yes ☒ No ☐

Alleged Trade Secret L: Kiyo Matching Network Trade Secrets Yes ☒ No ☐

Alleged Trade Secret S: AMAT Matching Network Yes ☒ No ☐

If your answer to Question 1 is "yes" for any alleged trade secret category, then answer Question 2 for those alleged trade secret categories only. If you answered "no" to all alleged trade secret categories in Question 1, stop here, and answer no further questions.

Question 2: Was this information secret at the time of the alleged misappropriation?

Alleged Trade Secret D: Da Vinci RF Generator Control, Digital Measurement, and Software Yes ☒ No ☐

Alleged Trade Secret E: Next Generation RF Matching Network Yes ☒ No ☐

Alleged Trade Secret L: Kiyo Matching Network Trade Secrets Yes ☒ No ☐

Alleged Trade Secret S: AMAT Matching Network Yes ☒ No ☐

If your answer to Question 2 is "yes" for any alleged trade secret category, then answer Question 3 for those alleged trade secret categories only. If you answered "no" to all alleged trade secret categories in Questions 1-2, stop here, and answer no further questions.

Question 3: Did this information have actual or potential independent economic value because it was secret?

Alleged Trade Secret D: Da Vinci RF Generator Control, Digital Measurement, and Software

Yes ☒

No ☐

Alleged Trade Secret E: Next Generation RF Matching Network

Yes ☒

No ☐

Alleged Trade Secret L: Kiyo Matching Network Trade Secrets

Yes ☒

No ☐

Alleged Trade Secret S: AMAT Matching Network

Yes ☒

No ☐

If your answer to Question 3 is "yes" for any alleged trade secret category, then answer Question 4 for those alleged trade secret categories only. If you answered "no" to all alleged trade secret categories in Questions 1-3, stop here, and answer no further questions.

Question 4: Was this information readily ascertainable by proper means at the time of the alleged acquisition or use by XP?

Alleged Trade Secret D: Da Vinci RF Generator Control, Digital Measurement, and Software

Yes ☐

No ☒

Alleged Trade Secret E: Next Generation RF Matching Network

Yes ☐

No ☒

Alleged Trade Secret L: Kiyo Matching Network Trade Secrets

Yes ☐

No ☒

Alleged Trade Secret S: AMAT Matching Network

Yes ☐

No ☒

If your answer to Question 4 is "no" for any alleged trade secret category, then answer Question 5 for those alleged trade secret categories only. If you answered "yes" to all alleged trade secret categories in Question 4, stop here, and answer no further questions.

Question 5: Did Comet make reasonable efforts under the circumstances to keep the information secret?

Alleged Trade Secret D: Da Vinci RF Generator Control, Digital Measurement, and Software Yes ☒ No ☐

Alleged Trade Secret E: Next Generation RF Matching Network Yes ☒ No ☐

Alleged Trade Secret L: Kiyo Matching Network Trade Secrets Yes ☒ No ☐

Alleged Trade Secret S: AMAT Matching Network Yes ☒ No ☐

If your answer to Question 5 is "yes" for any alleged trade secret category, then answer Question 6 for those alleged trade secret categories only. If you answered "no" to all alleged trade secret categories in Question 5, stop here, and answer no further questions.

Question 6: Did XP acquire or use the information by improper means?

Alleged Trade Secret D: Da Vinci RF Generator Control, Digital Measurement, and Software Yes ☒ No ☐

Alleged Trade Secret E: Next Generation RF Matching Network Yes ☒ No ☐

Alleged Trade Secret L: Kiyo Matching Network Trade Secrets Yes ☒ No ☐

Alleged Trade Secret S: AMAT Matching Network Yes ☐ No ☒

If your answer to Question 6 is "yes" for any alleged trade secret category, then answer Question 7 for those alleged trade secret categories only. If you answered "no" to all alleged trade secret categories in Question 6, stop here, and answer no further questions.

Question 7: Was XP's improper acquisition or use of the information a substantial factor in causing any damages for misappropriation of the information?

Alleged Trade Secret D: Da Vinci RF Generator Control, Digital Measurement, and Software Yes ☒ No ☐

Alleged Trade Secret E: Next Generation RF Matching Network Yes ☒ No ☐

Alleged Trade Secret L: Kiyo Matching Network Trade Secrets Yes ☐ No ☒

Alleged Trade Secret S: AMAT Matching Network Yes ☐ No ☐

If your answer to Questions 7 was "yes" for any alleged trade secret categories, then answer Questions 8-10 for those alleged trade secret categories only. If you answered "no" to all alleged trade secret categories in Question 7, stop here, and answer no further questions.

Question 8: What is the dollar amount of the compensatory damages that you award from misappropriation of Comet's Alleged Trade Secret? You may award damages for XP's unjust enrichment from misappropriation of Comet's Alleged Trade Secret (UE) or a reasonable royalty for XP's unauthorized disclosure or use of the Alleged Trade Secret (RR), but not both.

	UE	RR
Alleged Trade Secret D: Da Vinci RF Generator Control, Digital Measurement, and Software	\$ <u>5.0M</u>	_____
Alleged Trade Secret E: Next Generation RF Matching Network	\$ <u>15.0M</u>	_____
Alleged Trade Secret L: Kiyo Matching Network Trade Secrets	\$ <u>0</u>	_____
Alleged Trade Secret S: AMAT Matching Network	\$ <u>0</u>	_____

Question 9: If you entered dollar amounts for two or more blanks in the preceding question, then in order to account for the possibility of double or multiple counting, state the grand total of all unjust enrichment to XP without any double or multiple countings:

\$ 20M

Question 10: Has Comet proved that XP willfully and maliciously misappropriated one or more of Comet's trade secrets:

Yes ☒ No ☐

If your answer to Question 10 was "yes" then continue to Question 11. If your answer to Question 10 was "no" then answer no more questions.

Question 11: What is the dollar amount of the punitive damages Comet should receive from XP?

\$ 20M

You have now reached the end of the verdict form and should review it to ensure it accurately reflects your unanimous determinations. The Presiding Juror should then sign and date the verdict form in the spaces below and notify the Courtroom Deputy.

Dated: March 23, 2022 By: Mary Jo Henderson
Presiding Juror