

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

FILED '08 JUN 11 16:19 USDC-ORP

SMITH & NEPHEW, INC., and
JOHN O. HAYHURST, M.D.,

Case No. CV 04-029 MO

Plaintiffs,

v.

VERDICT

ARTHREX, INC.,

Defendant.

We, the Jury, being first duly empaneled, do find as follows:

INFRINGEMENT

1. Did Plaintiffs prove by a preponderance of the evidence that Arthrex indirectly infringed any of the claims in the '557 patent by selling or marketing the Bio-Suture Tak anchors?

Yes No

If you answered "yes" to Question 1, which claims were infringed?

Claims 1 through 7

2. Did Plaintiffs prove by a preponderance of the evidence that Arthrex indirectly infringed any of the claims in the '557 patent by selling or marketing the PEEK Suture Tak anchors?

Yes X No _____

If you answered "yes" to Question 2, which claims were infringed?

Claims 1 through 7

3. Did Plaintiffs prove by a preponderance of the evidence that Arthrex indirectly infringed any of the claims in the '557 patent by selling or marketing the PEEK PushLock anchors?

Yes X No _____

If you answered "yes" to Question 3, which claims were infringed?

Claims 1 through 7

4. Did Plaintiffs prove by a preponderance of the evidence that Arthrex indirectly infringed any of the claims in the '557 patent by selling or marketing the Bio PushLock anchors?

Yes X No _____

If you answered "yes" to Question 4, which claims were infringed?

Claims 1 through 7

If you answered "no" to Questions 1 - 4, you are done. Please sign the verdict form and alert the court that you have reached a verdict. If you answered "yes" to any of Questions 1 - 4, proceed to Questions 5 - 7.

WILLFULNESS

5. Did plaintiffs prove by clear and convincing evidence that Arthrex's indirect infringement of the '557 patent was willful?

Yes X No _____

DAMAGES

6. Did Smith & Nephew prove by a preponderance of the evidence that it is entitled to lost profit damages?

Yes X No _____

If "yes," what amount is Smith & Nephew entitled to recover? \$ 4,788,014.00

7. If Smith & Nephew has not proven it is entitled to lost profit damages or if it has proven it is entitled to lost profits for only some of Arthrex's sales, what amount of reasonable royalty damages do you find Smith & Nephew entitled to?

\$ 9,907,844 (16%)

DATED: June 11, 2008

Jury Foreperson