

Jury Returns \$3.2M Verdict For Thermal Patent Infringement

By Ryan Boysen

Law360, New York (May 17, 2017, 1:27 PM EDT) -- Specialty manufacturer Unifrax LLC on Tuesday was found liable for roughly \$3.3 million for infringing a patent for thermal blanket coating held by DuPont Co., following a jury trial in Delaware federal court.

Throughout the case Unifrax sought to argue that DuPont's patent — U.S. Patent No. 8,607,926, entitled "Composite Flame Barrier Laminate for a Thermal and Acoustic Insulation Blanket" — was invalid because it was obvious and had been anticipated in another patent.

The jury rejected that argument, however, finding the patent valid and finding that Unifrax had infringed three of its claims and awarding DuPont \$3.27 million in damages.

"The jurors carefully weighed the evidence after a weeklong trial, and we are pleased that they ruled in our favor," a spokesman for DuPont told Law360. "This verdict makes clear that DuPont will aggressively pursue all legal remedies to protect its technology."

DuPont brought the suit in 2014, alleging that Unifrax was infringing the patent, which is related to Normex XF, a "composite flame barrier laminate" used in aircraft structures, the spokesman said. Specifically, the patent covers a three-layer laminate coating for thermal and acoustic blankets, consisting of a heat-resistant coating bonded with a refractory coating by a layer of adhesive.

DuPont alleged that Unifrax's thermal blankets used a coating that was roughly the same as the one described in the patent.

All of the trial transcripts along with most of the documents filed in the suit remain sealed or heavily redacted, leaving much of the action leading up to the trial somewhat unclear.

Along with its claims that the patent was invalid, Unifrax initially argued that DuPont brought the suit in bad faith, knowing that the patent was unenforceable, an assertion that U.S. District Judge Richard G. Andrews shot down early on in the case.

"As plaintiff points out, if all that were necessary to bring state law counterclaims was an allegation of invalidity and/or noninfringement, with an allegation of 'bad faith,' one would expect to see these sorts of counterclaims in most patent litigation," Judge Andrews wrote in a 2015 order that dismissed many of Unifrax's counterclaims.

Other motions to dismiss and motions for summary judgment were also dismissed, as Judge Andrews found that material issues of fact relating to the patent's validity remained unsettled, such as whether or not an otherwise unidentified "Dr. Chu" contributed to the patent's conception or not.

A representative for Unifrax did not immediately respond to a request for comment on Wednesday.

Unifrax is represented by Joseph G. Curatolo and Salvatore A. Sidoti of Curatolo Sidoti Co. LPA, Jake M. Holdreith, David A. Prange, Alyssa N. Lawson, Brenda L. Joly, Emily E. Niles, George Ashenmacher of Robins Kaplan LLP, and Frederick L. Cottrell III, Kelly E. Farnan, Jason J. Rawsley, Katharine L. Mowery of Richards Layton & Finger PA.

DuPont is represented by Chris Landgraff, Mark Levine, Chris Hagale and Sharon Desh of Bartlit Beck Herman Palenchar & Scott LLP, and Richard L. Horwitz, David E. Moore, Bindu A. Palapura and Stephanie E. O'Byrne of Potter Anderson & Corroon LLP.

The case is E.I. DuPont De Nemours And Co. v. Unifrax LLC, case number 1:14-cv-01250, in the U.S. District Court for the District of Delaware.

--Editing by Stephen Berg.