

Another Stain, Albeit an Inexpensive One, on Huawei's Trade Secret Practices

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On June 26, 2019, a federal jury in the Eastern District of Texas found California-based semiconductor startup CNEX Labs (CNEX) not guilty of stealing trade secrets from mainland Chinese state-backed Huawei Technologies (Huawei). Huawei failed suit in 2017 against CNEX and its co-founder, Ronnie Huang, for stealing its and poaching its employees. It sought at least US\$85.7 million in damages and rights to CNEX's chip technology.

Ronnie Huang had previously worked at Huawei's U.S. research arm, Futurewei Technologies, Inc. (Futurewei). The jury found that he had breached his employment contract for failing to notify Huawei of the many patent applications he filed at CNEX within a year of leaving Futurewei. However, the jury awarded no damages due to lack of harm. It further found that CNEX had not misappropriated any of Huawei's trades secrets.

In CNEX's countersuit for US\$24.5 million in damages over development delays and lost revenue, CNEX alleged that Huawei had posed as a potential buyer and also convinced Xiamen University to partner with CNEX for the purpose of sharing the startup's designs with Huawei. CNEX argued that Huawei's tactics amounted to "bullying and intimidation" and improper use of the federal judicial system. The jury found Huawei guilty of misappropriating CNEX's flash memory technology but similarly refused to award damages, given Huawei's lack of revenue or profits from the misconduct. Both sides walked away empty-handed.

Huawei is also facing another legal battle, in the same federal district court, to overturn the U.S. government's sales ban on Huawei's equipment sales to federal agencies and contractors. That case is still pending.

TIP: This case is an example of the recent strained relations between the U.S. and the Chinese tech giant. It also demonstrates the back and forth finger-pointing typical of trade secret dispute claims, with both sides making claims that the other has inappropriately used or sought to use its technology.

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