

Jury Awards Olaplex \$91.3 Million in Damages for L'Oréal's Intellectual Property Violations

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A jury in the District Court for the District of Delaware recently awarded \$91.3 million in damages to Olaplex LLC, a haircare startup, after finding beauty industry giant, L'Oréal USA, liable for a variety of intellectual property violations including theft of trade secrets. The jury determined that L'Oréal had misappropriated Olaplex's trade secrets, willfully infringed two of Olaplex's patents, and breached a confidentiality agreement between the parties.

The 'David and Goliath' litigation arose from a 2015 meeting where the parties discussed a potential acquisition of Olaplex by L'Oréal, or a licensing deal of Olaplex's hair products used for protecting color-treated hair. Olaplex, a then-fledgling company who had been in the market for just over a year at that time, alleged that L'Oréal exploited trade secret information it had learned from Olaplex in those discussions to create knockoff products in violation of the parties' agreement. L'Oréal argued that it had independently conceived of the products at issue.

After the jury sided with Olaplex, the judge issued a permanent injunction, banning L'Oréal from selling 9 products at issue in the litigation. Judge Bataillon did provide some minor relief to L'Oréal, however, reducing the \$91.3 million damages award from the jury to just under \$50 million. L'Oréal has already filed its appeal, and invalidation proceedings are ongoing before the United States Patent and Trademark Office.

TIP: This case is another example of the severe risks companies face if they use information learned, under an NDA, in the course of a potential acquisition or licensing arrangement with a target company.

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