

## Winston Wins (Field) Turf War

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Following a month-long trial in the Eastern District of Michigan, Winston secured a \$30 million jury verdict on behalf of client FieldTurf in a patent infringement case against FieldTurf's chief rival, AstroTurf. The jury also found that AstroTurf's infringement was willful, opening the door to potential trebling of the award and recovery of attorneys' fees. Together with prejudgment interest, the final award could exceed \$100 million. In addition to siding with FieldTurf on the patent issues, the jury rejected in its entirety AstroTurf's counterclaim alleging that FieldTurf had engaged in false and deceptive advertising in marketing its products.

The case involves a key feature of synthetic turf playing fields. The innovation covered by the patent revolutionized the turf industry, taking FieldTurf from what was originally a three-person operation selling one or two fields a year to the leader in the synthetic turf market with a 50% market share and over 8,000 installations worldwide. The infringement by AstroTurf dated back to 2004 and involved 676 fields.

The trial took a dramatic turn during two key cross-examinations. Under Partner Derek Sarafa's questioning, AstroTurf's president admitted his direct testimony was "impossible" and "false." Following the examination, the Court remarked that it had never "seen a man take the witness stand and testify that his prior sworn testimony was false. Never. There's a big verdict on the way here folks. I watched the jury listen to that testimony and I think they were about as shocked as me."

The following day, under questioning, AstroTurf's technical expert admitted that AstroTurf's invalidity case was unfounded.

The trial team was led by Mike Brody, Derek Sarafa, and included Brian Nisbet and Pat O'Meara.

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Brian Nisbet