

## Trade-Secrets Case Felt like 'Star Wars'

BY JOAN OSTERWALDER

In 1995, attorney Jeffrey Chanin, a partner at Kecker & Van Nest in San Francisco, took on what appeared to be a simple trade-secrets case. Little did he know that the litigation would turn into a seven-year legal battle with the flavor of an espionage movie.

Chanin represented Cadence Design Systems Inc., a software firm based in San Jose, in a trade-secrets and copyright infringement case against Avant! Corp., a smaller competitor, over stolen source code for software to create computer chips.

The federal lawsuit sparked a criminal investigation that resulted in no contest pleas to trade-secret theft charges by Avant! and six employees last year. Avant! paid Cadence \$460 million — \$195 million in restitution for the criminal case and \$265 million to settle the civil case. *Cadence Design Systems Inc. v. Avant! Corp.*, CV 952828 (N.D. Cal., settled Nov. 13, 2002).

Chanin, who specializes in intellectual property litigation, says this case was "the longest, the biggest and the hardest" of his legal career. "It was like the Star Wars trilogy—how many years of those movies have we seen?" the 48-year-old lawyer says.

"It was omnipresent and unforgettable," Chanin adds.

Dan Bookin, a partner at O'Melveny & Myers in San Francisco, defended Avant!, which was acquired by Mountain View-

based Synopsys Inc. in June.

"This case was literally a fight for Avant!'s survival," Bookin says.

"Cadence's stated intent was to put Avant! out of business by 1996. The technology that made Avant!'s product successful did not come from Cadence," he adds.

Cadence was formed in 1988. Three years later, four of Cadence's senior engineers left to found Avant!, and in 1994, Gerald Hsu, a Cadence vice president, resigned and also moved to the rival company, according to published reports.

Cadence threatened to sue Hsu and Avant! for trade-secret misappropriation. A settlement was negotiated in which Hsu was barred for six months from using any information about Cadence's business plans, customers or employees, Chanin says. The two firms also released each other from any future claims up to 1994, he says.

A year later, however, a Cadence engineer discovered a "bug" which he had developed several years earlier in Avant! software. Cadence retained Kecker & Van Nest.

Chanin says Cypress Semiconductor, a chip design manufacturer and Cadence and Avant! customer, agreed to let an expert compare the code of both companies' products to check for matches.

During that time, Mitsuru Igusa, a Cadence engineer, left and copied Cadence software code information, Chanin says. Authorities searched

Mitsuru Igusa's home and later learned that he went to work in an office two blocks from Avant! with money from a "slush fund" from Avant! executives, according to the prosecutor in the case.

Igusa was eventually sentenced to a year in jail.

"You had a bug, you had this very strange behavior with Igusa," Chanin says. In one instance, he says, Avant!'s chief technology officer handed Igusa an envelope in a parking lot.

"It was just like a movie," Chanin says.

Cadence filed its civil suit after authorities raided Avant!'s offices in Fremont. What followed was a long and drawn-out legal battle in which Cadence and Avant! were portrayed as bitter rivals.

The case was appealed to the 9th U.S. Circuit Court of Appeals, which reversed the lower court and ordered it to grant Cadence a preliminary injunction, and to the California Supreme Court, which issued its ruling after the settlement. The high court ruled that trade-secrets theft can be treated only as a single claim under state law and does not entitle a plaintiff to damages every time the secret is misused.

Chanin says he has come across many highly technical cases. Litigation he has handled has ranged from implantable defibrillator devices to a wine process for making chardonnay. The Cadence case intrigued him because of the "behind-the-scenes espionage," he says, even though the case turned out to be a "seven-year itch."