

# Daily Journal

FEBRUARY 15, 2017

## TOP VERDICTS OF 2016

The largest and most significant verdicts and appellate reversals handed down in California in 2016

### TOP DEFENSE VERDICTS

## Cisco Systems Inc. v. Arista Networks Inc.

#### case INFO

#### Patent and copyright infringement

Northern District  
U.S. District Judge  
Beth Labson Freeman

#### Defense lawyers:

Keker, Van Nest & Peters LLP,  
Robert A. Van Nest, Brian L.  
Ferrall, David J. Silbert, Ajay  
S. Krishnan, Michael S. Kwun,  
Audrey Hadlock, Ryan Wong,  
Elizabeth K. McCloskey, Eduardo  
Santacana, David J. Rosen,  
Andrea Nill Sanchez, Christina  
M. Blais

#### Plaintiff lawyers:

Quinn Emanuel Urquhart &  
Sullivan LLP, David A. Nelson,  
Sean S. Pak, John M. Neukom



ROBERT A. VAN NEST



DAVID J. SILBERT



BRIAN L. FERRALL

**K**eker, Van Nest & Peters LLP relied on a large trial team to represent Arista Networks Inc. in fending off a \$335 million intellectual property case brought by Silicon Valley giant Cisco Systems Inc.

Cisco alleged that Santa Clara-based Arista illegally used Cisco's command-line interfaces, which are typed-in manual text

commands used for controlling network switches. Cisco claimed the command-line interfaces were protected by copyright.

"We had seven different lawyers handle witnesses in front of the jury," lead Arista counsel Robert A. Van Nest said. "We presented a wide range of people as part of the Arista team."

Van Nest said that a big team allows each practitioner to focus on one or two witnesses and avoids overburdening a single lawyer.

"I think it's more interesting and more engaging for jurors," Van Nest added. "The same lawyer over and over during two weeks

of evidence is pretty boring."

Arista brought to the stand witnesses from other major technology companies, including HP Inc., Juniper Networks Inc. and Dell Inc., who testified to widespread use of the same set of command-line interfaces by the networking industry without any objection from Cisco.

Through the testimony, Arista sought to demonstrate that the command-line interfaces were not creative products meant for copyright protection.

A federal jury held in December that Arista presented a valid legal defense to Cisco's copyright infringement claims.

Jurors also found that Arista did not infringe a Cisco patent also asserted at trial. *Cisco Systems Inc. v. Arista Networks Inc.*, 14-5344 (N.D. Cal., filed Dec. 5, 2014).

San Jose-based Cisco has filed a post-trial motion to overturn the verdict. U.S. District Judge Beth Labson Freeman has scheduled a hearing for April.

"Cisco wasn't able to compete with the new product format that Arista was presenting and was trying to slow them down with a legal action," Van Nest said. "I think this was purely a move to prevent competition."

— Kevin Lee