

Jury Says LabCorp Owes \$272M For Infringing Prenatal Test IP

By **Andrew Karpan**

Law360 (September 23, 2022, 4:36 PM EDT) -- A federal jury in Waco, Texas, found on Friday afternoon that LabCorp, one of the largest chains of clinical lab providers in the world, owes more than \$272 million to a small Maryland biotech business for willfully infringing a patent covering a method of testing for genetic disorders during pregnancy.

Western District of Texas Judge Alan Albright read the unanimous verdict out loud at the end of a trial that kicked off Monday and pitted Ravgen Inc. against LabCorp.

Ravgen's founder and CEO, Ravinder Dhallan, told jurors he had revolutionized prenatal testing by using formaldehyde to test for genetic disorders during pregnancy.

The verdict, pinned to a single claim of a patent issued to Dhallan in 2008, indicated that LabCorp's labs willfully infringed the patent and owed \$272,497,400, the amount Ravgen lawyers had requested at the close of the case. The number reflected what the company's lawyers said was "a rate of 100 bucks a test." According to Labcorp, its prenatal tests go for around \$500.

"He started a market that did not exist [before] this invention," Ravgen lawyer John Desmarais of Desmarais LLP had told jurors during opening arguments.

LabCorp's lawyers pinned the company's defense on arguing that the tests used by its labs around the country did not exactly use the method Dhallan had received a patent on, and sharply criticized Dhallan's patented methodology as unsuccessful.

"Formaldehyde actually damages baby DNA," LabCorp lawyer Edward Poplawski of Wilson Sonsini Goodrich & Rosati PC had told jurors. "The Ravgen approach was scientifically tested, and it did not work."

The company also initially tried to get jurors to, alternatively, find that Dhallan's patent should never have been issued because its method could be found in older prenatal testing products marketed by another biotech company called Streck Inc.

"Simply placing formaldehyde — a known, but no-good chemical — into a tube of collected blood is not insightful in any way," Poplawski had initially told jurors.

By Thursday, however, the company had dropped the defense. According to Desmarais, this was

because he had cornered Streck's CEO, Connie Ryan, on the stand into admitting that the company's product wasn't the same as the one that Dhallan invented.

"She admitted on cross-examination that the primary patent they were relying on had nothing to do with ... fetal DNA, and I think that was something they couldn't deal with," he said.

The rest of the lab testing giant's defense was framed around arguing that Dhallan's company had never been very successful over the course of the 20 years since Dhallan started it in the early 2000s. During a nearly two-hour cross-examination, Poplawski had peppered Dhallan, a former emergency room doctor before starting Ravgen, on his company's financial failings.

"Your company grew very little," Poplawski repeatedly told the executive, telling him and jurors that the business had also failed to ever notch a profit since it began. The company still only had nine employees, the same number it started with, Poplawski said. He showed jurors a business outline drawn up by Ravgen's former chief financial officer and forced Dhallan to admit the company's initial goals were never met.

"Are you trying to make me feel bad, compared to the billions of dollars that LabCorp has made? I think that's kind of funny or something," Dhallan retorted at one point, earning a rebuke from Judge Albright.

Desmarais, Ravgen's lawyer, told Law360 that he felt like this legal strategy by LabCorp backfired.

"I think that was a big mistake ... beating up on Ravgen for being a small, sole-proprietor kind of company when [LabCorp] is a billion-dollar corporation ripping off his invention," Desmarais said.

Ravgen is also nowhere near done with its legal crusade against larger lab testing companies. The next trial is set to head to a jury in California federal court in early October against Quest Diagnostics.

"We have a lot of pending cases, and I think we're going to go off to the next one, and we hope this will send a signal to the industry that they need to take a license," Desmarais added. "All we want to do is license."

Representatives for LabCorp did not return a request for comment on the verdict.

The patent-in-suit is U.S. Patent No. 7,332,277.

Ravgen is represented by John M. Desmarais, Gabrielle Higgins, Kerri-Ann Limbeek, Jamie L. Kringstein, Kyle G. Petrie, Joze Welsh, Jun Tong, Deborah J. Mariottini, Peter Zhu, Benjamin N. Luehrs, Vi T. Tran and Brian D. Matty of Desmarais LLP and Deron R. Dacus of The Dacus Firm PC.

LabCorp is represented by Olivia M. Kim, Aden M. Allen, Edward G. Poplawski, Erik J. Carlson and Naoya Son of Wilson Sonsini Goodrich & Rosati PC, Matias Ferrario and Nicole L. Regna of Kilpatrick Townsend & Stockton LLP and Peter J. Chassman and Hallie H. Wimberly of Reed Smith LLP.

The case is Ravgen Inc. v. Laboratory Corp. of America Holdings, case number 6:20-cv-00969, in the U.S. District Court for the Western District of Texas.

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