Court Upholds "Monster" $293 Million Award But Declines to Award Monster Energy Company Exemplary Damages for Energy Drink Competitor's Trade Secret Violations

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by Benjamin Greenberg and Jessica M. Leano

Last month, Vital Pharmaceuticals, Inc. ("Vital"), the manufacturer of the Bang energy drink, fell short in its post-trial challenge to a "monster" jury award in favor of Monster Energy Company ("Monster"). After nearly five years of litigation in the Central District of California, Monster's Lanham Act, California Uniform Trade Secrets Act (CUTSA), Federal Defend Trade Secrets Act (DTSA), intentional interference with contract, and Computer Fraud & Abuse Act claims reached a jury in August 2022 that ultimately awarded Monster $293 million in damages. The parties filed post-trial briefing whereby Vital attempted to overturn or alternatively peel back the enormous award, while Monster sought, among other things, enhanced damages and attorneys' fees. The court's October 6, 2023 post-trial order ultimately upheld the jury award and awarded Monster nearly $21 million in attorneys' fees under the Lanham Act's, DTSA's, and CUTSA's heightened standards for fee shifting. Despite meeting this high burden for shifting fees and the jury's finding that Vital's trade secret violations were "willful and malicious," the court declined to award exemplary damages under the CUTSA and DTSA. The court's ruling demonstrates the high bar for obtaining exemplary damages in trade secrets cases.

The jury awarded Monster $3 million in damages for its trade secrets claims, which was perhaps overshadowed by the $272 million lost profits award for Vital's Lanham Act violations. (Monster's Lanham Act false advertising claim alleged that Vital falsely advertised Bang as containing the supplement "super creatine," which was neither a "super form" of creatine nor actual creatine with any health benefits.)

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Monster based its trade secrets claims on its contention that Vital recruited Monster employees to join Vital and bring with them Monster's confidential and valuable business information in violation of the CUTSA and DTSA. Monster introduced evidence that Vital offered several Monster employees jobs with a significant salary increase, conditioned on providing Monster's sensitive competitive information. Witnesses for Vital and Monster provided more details on this scheme, testifying that Vital interviewers asked Monster