

PRESS RELEASE

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ELEKTA'S PATENT DISPUTE IN THE U.S.

As previously announced on several occasions a privately held American company sued certain companies within the Elekta Group for patent infringement in late 1997. The plaintiff asserted that some of Elekta's software products were infringing on some U.S. patents held by that company. The patents relate to a method of transferring medical images, e.g., CT or MRI scans into a computer for the purpose of stereotactic planning and image fusion.

In February 2002 the jury in the United States District Court for Southern District of California, a first instance court, entered a verdict in the amount of approximately USD 17 M. The jury verdict was based on a finding of patent infringement and the jury found that the infringement was willful.

In September 2002 the judge entered his judgement in the case based on the previous jury verdict. The judgement was in an amount of approximately USD 25 M and the amount includes an enhancement of damages by 25 percent, attorney's fees and interest. Under US law, the judge may have enhanced the amount of the jury verdict damages by up to 300 percent. The judgement also included an injunction prohibiting infringement. The injunction does not prevent Elekta from delivering any of its products to the U.S.

Elekta does not consider itself liable for any patent infringement and is of the opinion that the judgement as well as the jury verdict is incorrect on many different grounds. Notice of appeal will be filed shortly to the United States Court of Appeal for the Federal Circuit, the appellate court with nationwide jurisdiction in patent cases. Elekta estimates the appeal process to take between two to three years. Elekta's opinion, supported by legal counsel in the case is that the appeal has a strong basis.

Elekta's grounds for appeal are, to summarize and simplify, based on the following main points:

- (i) that the patents held by the American company are invalid due to prior art;
- (ii) that the patents held by the American company have been misinterpreted;
- (iii) that if the patents are held to be valid, Elekta's products does not infringe the patents and;
- (iv) at any rate, that the damages have been wrongly calculated.

Surety bond

During the appeals process Elekta will be required to issue a surety bond. The size of the surety bond is not yet set by the court but Elekta estimates that an amount of USD 25 M will be adequate.

Facilities

Elekta has insurance facilities for various purposes and risks. As part of these measures Elekta has a financial facility (Facility) with a limit up to USD 20 M. During the maturity of this particular Facility, Elekta is pledging funds towards the Facility in accordance with its terms.

For this patent dispute the Facility serves as a collateral for the surety bond during the appeals process as well as a vehicle to finance and distribute any damages awarded up to the limit of the Facility.

In the unlikely event the Court of Appeals were to uphold the judgement of the District Court, Elekta would pay a total amount equal to the limit of the Facility, USD 20 M, over nine years with most of the disbursements to be made over first five years. Elekta would also pay any damage amount exceeding the limit of the Facility. As of today Elekta has pledged SEK 27 M towards the Facility.

As long as the patent dispute continues Elekta will incur costs for among other things legal services and the cost for the Facility. The total cost for the Facility alone is approximately SEK 20 M. Elekta estimates that the annual costs for this patent dispute will be approx. SEK 10-20 M. Elekta has made a provision last fiscal year of SEK 20 M for estimated costs to be incurred during current fiscal year 2002/03.

Accounting treatment

In the event Elekta would loose its appeal the full amount of a final award would be charged to the income statement at the time in question. In the balance sheet the amount of any damages would be accounted for as an interest bearing liability to be offset by the amount pledged towards the Facility.

During the appeals process the face value of the surety bond will be accounted for as a contingent liability.

If, as Elekta expects, the Court of Appeals were to support the appeal and release Elekta from all liability in this patent dispute, Elekta may choose to release amounts pledged towards the Facility.

“We are of course disappointed over the judgement entered by the judge in the District Court but we are not surprised”, says Laurent Leksell, President and CEO of Elekta.

“Having received the judgement we can now disclose more information about this dispute. We are of the opinion that the judgement is incorrect and we intend to vigorously defend ourselves with all appropriate legal means. We can now, as previously announced, file a notice of appeal to the Court of Appeals. We have a very strong basis for our appeal”, continues Laurent Leksell.

“In spite of the fact that this type of dispute is quite common in our industry, particularly in the U.S., Elekta has no other material disputes of any kind on-going. With the filing of the appeal we are now looking forward to continue to serve our customers and to carry on with our daily business with the objective to achieve sustainable profitable growth”, ends Laurent Leksell.

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Elekta is a world-leading supplier of advanced and innovative radiation oncology and neurosurgery solutions and services for precise treatment of cancer and brain disorders. Elekta’s solutions are clinically effective, cost efficient and gentle to the patient.

For further information, please contact:

Lars Jonsteg, VP Communications, Elekta AB (publ), tel. +46 8 587 254 82

More information about Elekta can be found at: www.elekta.com