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Neal Gerber Eisenberg Reverses Default Judgment for VSN Mobil

In November 2016, Neal Gerber Eisenberg (NGE) Partner Mike R. Turner saw that VSN Mobil, which was not a client, was hit with a severe default judgment in a patent case in San Diego. If upheld, the \$750,000 judgment and the injunction against one of their three product lines would have likely put VSN out of business.

Mike forwarded the judgment to some contacts and eventually received a call from the CEO, whom he did not know. The CEO was unaware that the case had proceeded beyond the filing stage back in June. The next day, NGE was retained to fight the default judgment, with Associate Mark McLoughlin assisting on the case. NGE challenged whether VSN had properly been served, put forth a rationale basis as to why they believed they did not need to respond to the complaint, and explained the strong patent defenses they had not been able to assert due to the default.

The NGE team hired local counsel, got briefing stayed on the plaintiff's attorney's fees, and filed a Rule 60 motion to lift the default. After a month of briefing, the Court ruled in VSN's favor on February 13, 2017. The case is ongoing, but the NGE team expects they should be able to settle the case or invalidate the patent at issue for a tenth of the prior damage award, and without a suffocating injunction in place.

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