

GE loses antitrust suit over medical machinery

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Anesthaesia machine, Jon Dawson

General Electric caused nearly \$44 million in antitrust damages to 17 companies that service or refurbish GE anesthesia machines throughout the US, a federal jury found on Wednesday.

The jury in the Eastern District of Texas determined that GE restrained competition in the product market for the maintenance and service of anesthesia gas machines by creating a rule to avoid training their competitors' service people in how to use new GE machines.

In their complaint, filed in March 2015, the plaintiffs alleged that GE is the largest original equipment manufacturer of anesthesia gas machines and related monitoring, ventilation and drug delivery equipment in the world, with a global market share of approximately 60%, and an 80% share in the US.

To stop training competitors, the plaintiffs claimed, GE created an endorsement policy: for a service person to be eligible for training from GE, a hospital would have to sign a document saying he would work only at that hospital. Employees of the plaintiff companies had to service multiple hospitals to make a living, and therefore were unable to obtain training from GE, according to the complaint.

GE also allegedly forced the plaintiffs to pay a significant premium on its parts and equipment in comparison to GE's direct customers. The plaintiffs accused GE of realising that if it stopped training its competitors in how to use its machines, in a few years those rivals' businesses would die out.

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The verdict form shows that the jury found on Wednesday that GE had monopoly power over both the anesthesia machines and their servicing, and that it engaged in various forms of anticompetitive conduct.

These included restricting training through the hospital endorsement policy; making distributor Alpha Source the sole means by which plaintiffs could obtain GE parts, after years of GE selling directly to servicing companies at lower prices; communicating to customers that plaintiffs would be unable to get parts for “obsolete” machines and plaintiffs lacked the training and long-term staying power to continue servicing machines; and limiting software notifications and updates.

The verdict will be trebled automatically to nearly \$132 million.

“The jury worked very hard to consider the facts and weigh the arguments,” said McKool Smith principal Sam Baxter, lead trial lawyer for the plaintiffs. “We’re delighted with the verdict. The jury sent a loud message that big corporations ought to treat the little guys fairly.”

Holly Roloff, a spokeswoman for GE, said the company “values appropriate market access to our life-saving technologies. Although we are disappointed by the verdict, we stand by our values and plan to appeal the decision.”

Counsel to Red Lion Medical Safety and other plaintiffs

McKool Smith

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