

Hueston Hennigan persuades US judge to reverse \$72M verdict against Boeing

U.S. District Judge James L. Robart rejected claims that the aerospace giant stole technology and sabotaged the business prospects of startup Zunum Aero.

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In a sweeping reversal, a federal judge in Seattle overturned a \$72 million jury verdict against Boeing, granting the aerospace giant's motion for judgment as a matter of law on all claims brought by electric aircraft startup Zunum Aero.

The court found that Zunum failed to provide substantial evidence to support its allegations of trade secret misappropriation, breach of contract, and tortious interference, dealing a significant blow to the startup's claims that Boeing stole its technology and sabotaged its business prospects. [Zunum Aero Inc v. The Boeing Company et al](#), 2:21-cv-00896, (W.D. Wash. July 2, 2021)

U.S. District Judge James L. Robart's ruling, issued on Wednesday, dismantled Zunum's case on multiple fronts. The court determined that Zunum failed to sufficiently identify its alleged trade secrets at trial and did not provide evidence that the purported secrets derived value from not being generally known.

The Hueston Hennigan team representing Boeing were John C. Hueston, Moez M. Kaba, Sourabh Mishra along with David Perez and Madeline Swan of Perkins Coie.

"We are grateful for the court's careful and thorough consideration of all the evidence at trial, and the ultimate vindication for Boeing from claims that should never have been brought," said Hueston, partner at Hueston Hennigan and co-lead counsel for Boeing.

Scott Danner and Vincent Levy of Holwell Shuster & Goldberg LLP represented Zunum. A Zunum spokesperson wrote in an email, "We are disappointed by the court's decision to overturn the jury's carefully considered and well-supported verdict. We intend to appeal the court's order and to reinstate the jury's verdict."

Robart ruled that Zunum failed to demonstrate that Boeing's use of information was unauthorized or that Zunum was harmed by any breach of contract. The judge found that

Zunum did not provide substantial evidence of a valid business expectancy with Safran, a key component of its tortious interference claim.

This decision marks a dramatic turnaround from the decision in May when a jury sided with Zunum. The jury agreed Boeing reproduced Zunum's technology and drove it out of the emerging short-haul electric aircraft market after investing in the company. The verdict included awards for trade secret misappropriation and tortious interference, totaling approximately \$72 million after reductions for Zunum's failure to mitigate damages.

Boeing had consistently maintained its innocence, stating after the initial verdict, "Boeing respectfully disagrees with the jury's verdict, which is not supported by the law or the facts." The company characterized Zunum's failure as the result of an "ambitious startup's reach exceeding its grasp," rather than any misconduct on Boeing's part.

Robart's order dismisses all Zunum's claims with prejudice and vacates the previous judgment in Zunum's favor. A new judgment will be entered in Boeing's favor.

Moez M. Kaba, managing partner of Hueston Hennigan and co-lead counsel for Boeing said, "This was a hard-fought trial but, as the Court methodically laid out, Boeing established that Zunum's claims were based on bare, conclusory assertions that simply did not hold up. We are proud to have helped Boeing achieve this deserved victory."

Along with Hueston and Kaba, Boeing was represented by Sourabh Mishra, Yegor Fursevich, Emily Michael Munson, Justin M. Greer, Karen Ding, Tate Harshbarger, Cassidy O'Sullivan, Samantha Fidler, Melanie Hess and Chandler Matz.