

ASX / MEDIA RELEASE

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Denial of appeal rehearing in US patent infringement case

Cochlear Limited (Cochlear) today announced that the United States Court of Appeals for the Federal Circuit in Washington, D.C. has denied its petition for a rehearing of the appeal.

On 17 March 2020, Cochlear announced that the Court of Appeals affirmed the US District Court award of USD 268 million in patent infringement damages against Cochlear and its US subsidiary Cochlear Americas in the lawsuit by the Alfred E. Mann Foundation for Scientific Research (“AMF”) and Advanced Bionics LLC (“AB”)

The Judgment will become final on 26 May 2020 and remanded to the District Court for payment of approximately USD 280 million being the Judgment amount and post judgment interest. This payment is expected to be made in the current financial year.

Cochlear has committed bank loan facilities available to fund the Judgment.

A decision in the US District Court is still pending on AMF and AB’s application for prejudgment interest of USD 123 million and attorney’s fees of USD 15 million. Cochlear has opposed both applications and the calculation methodology. There is significant uncertainty on whether prejudgment interest and/or costs will be awarded and/or the amount of any award and therefore this exposure is being treated as a contingent liability.

As the patent at issue in the litigation has expired, the Judgment will not disrupt Cochlear’s business or customers in the United States.

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This announcement is authorised by the Disclosure Committee.