

## ASX / MEDIA RELEASE

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### Adverse appeal decision in the US patent infringement case

#### Key points:

- **US Court of Appeals affirms the US District Court award of USD 268 million in patent infringement damages against Cochlear**
- **Cochlear to seek an en banc review by the full Court of Appeals in a petition for a rehearing**
- **Committed bank loan facilities available to fund this Judgment**
- **Decision still pending on AMF and AB's application for prejudgment interest of USD 123 million and attorney's fees of USD 15 million**
- **As the patent at issue in the litigation has expired, the Judgment will not disrupt Cochlear's business or customers in the US**
- **Cochlear remains confident it can meet future cash requirements**

Cochlear Limited today announced that the United States Court of Appeals for the Federal Circuit in Washington, D.C. has 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").

Cochlear's CEO & President, Dig Howitt said, "This case relates to two patents that are long expired. The Court invalidated the first patent and the remaining patent was much narrower in scope. We believe the amount of damages awarded is out of proportion with the limited application of the patented feature. We are very disappointed with this decision, but inflated damages awards are a risk of patent disputes in the US."

Cochlear will seek an en banc review by the full Court of Appeals in a petition for a rehearing. If the petition is unsuccessful and the Judgment amount and post judgment interest is paid, the insurance bond of USD 335 million to secure the Judgment will be returned to Cochlear.

Cochlear has committed bank loan facilities available to fund this 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 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.

## **Outlook**

Cochlear remains confident it can meet future cash requirements. Mr Howitt said, “In determining the cash needs for the business over the coming months, Cochlear had factored in this adverse judgment.”

## **Conference call**

Management will host a conference call at 11am today to discuss the announcement. Dial in details are as follows:

Australia 1800 908 299

International +617 3145 4005 (metered)

For further information, please contact:

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This announcement is authorised by the Board of Directors.