

November 29, 2016

## **Gornitzky represents Audio Pixels Holdings Ltd. in the dismissal of a 500 million NIS derivative suit**

### News

**Gornitzky successfully represented Audio Pixels Holdings Ltd. (an Australian public company) as well as its Israeli subsidiary, Audio Pixels, officers of the company and additional parties involved, in the dismissal of a motion to approve a derivative suit against them, in the amount of NIS 500 million.**

Lod District Court (the honorable Judge Dr. Borenstein) dismissed the motion to file a derivative suit against Audio Pixels, in the amount of approximately NIS 500 million, in relation to the claim of alleged technology theft, concerning unique developments in the audio field.

The technology to which the motion refers to is in fact a unique technology for the manufacturing of speakers, developed by Audio Pixels, based on micro electromagnetic structures (MEMS) and not on the customary classic speaker components in today's industry, which is expected to provide unprecedented performance in the field of audio. Several months ago, Audio Pixels reported a cooperation agreement for the production of chips together with the Israeli company TowerJazz. Recently, the company also proceeded to report to its investors its progress in the developmental stages, along with the unique cooperation with Bar Ilan University, in a project aimed at assisting the blind in sight analysis via the use of part of the technology it is developing.

At the beginning of 2013, Amir Baron, a software engineer, filed a request for the approval of a derivative suit against Audio Pixels Holdings Limited, its Israeli subsidiary, Audio Pixels, and several other executive officers at Audio Pixels along with other individuals involved.

Within the framework of the motion to approve a derivative suit, filed in the amount of about NIS 500 million, it was claimed that the intellectual property used by Audio Pixels belongs in fact to an Israeli Start-up company called B-4 (no longer active today, in which Baron worked together with the respondents) and that one of the respondents, who left B-4 in 2006, took the technology with him and used it, together with other respondents, in order to establish Audio Pixels, and in practice, the technology used by Audio Pixels today is B-4's intellectual property.

In a lengthy and detailed ruling, the court dismissed the motion to approve a derivative suit . Furthermore, the court determined that taking into account that B-4 is at the end of the road and that the purpose of the suit is to serve the personal interests of the share -holders, it cannot be determined that the purpose of the suit is indeed in favor of the company. Furthermore, the court ruled that the petitioner's

good-faith should be questioned.

Due to these reasons, the court decided to dismiss the motion to file a derivative suit and to impose the expenses on the petitioner.

The Audio Pixels group, its subsidiaries and other parties involved were represented by Eli Cohen (Partner), Or Lustgarten and Yaad Gordon.

## Key Contacts



**Eli Cohen**  
Partner



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