

# Kelly & Ors v. GE Healthcare, High Court of England and Wales (Patents Court) (High Court of England and Wales (Patents Court)), 11 February 2009

Kluwer Patent Blog  
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Sam Tuxford

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Two research scientists, involved with the synthesis of a compound which formed the basis of a patented heart imaging agent, brought what is the first ever successful action under Section 40 of the Patents Act 1977, arguing that the patents are of outstanding benefit to their employer, and as such, they are entitled to a fair share of this benefit. The Court concluded that the patents had been of outstanding benefit and having valued the benefit as in the order of GBP 50,000,000 awarded GBP 1,000,000 to the 1st Claimant and GBP 500,000 to the 2nd Claimant on the basis that: 'The benefits [of the patent] went far beyond anything which one could normally expect to arise from the sort of work the employees were doing'.  
The full summary of this case has been posted on [Kluwer IP Law](#).