

SUPREME COURT TELLS FEDERAL CIRCUIT THAT IT'S WRONG – AGAIN

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On June 13, the U.S. Supreme Court issued an opinion rejecting the Federal Circuit's test for awarding enhanced damages in patent cases. In *Halo Electronics v. Pulse Electronics* and *Stryker Corporation v. Zimmer, Inc.*, the Court held – unanimously – that the prevailing two-part test for enhancing patent damages established by the Federal Circuit in *In re Seagate Technology, LLC* was overly rigid and inconsistent with the express language of the Patent Act.

Section 284 of the Patent Act provides that “the court may increase the damages up to three times the amount found or assessed.” In *Seagate*, the Federal Circuit adopted a test for obtaining enhanced damages that required a showing, by clear and convincing evidence, that (1) the infringer acted despite an objectively high likelihood that its actions infringed a valid patent; and (2) the infringer knew or should have known of this likelihood. This high standard made it very difficult for a successful patent holder to obtain enhanced damages. The Supreme Court discarded the “artificial construct” established by *Seagate* and held that district courts should have broader discretion to award enhanced damages without the constraints of the *Seagate* test. At the same time, the Court emphasized that such damages should be reserved “for egregious cases typified by willful misconduct.”

The opinion is one more in a long line of decisions in which the Supreme Court has rejected interpretations of patent law by the Federal Circuit. Those earlier decisions include 2014's *Octane Fitness, LLC v. ICON Health & Fitness*, in which the Court rejected a similarly rigid Federal Circuit test for finding a case “exceptional,” thus qualifying for an award of attorneys' fees. There also, the Court emphasized that the Federal Circuit had improperly limited the broad discretion the Patent Act gives district courts. If accused infringers who successfully defended their actions were heartened by *Octane Fitness*, which makes it easier for them to obtain attorneys' fees, patent holders no doubt will be encouraged by *Halo Electronics* increasing the likelihood of their obtaining enhanced damages when they prevail against an infringer.

ADDITIONAL INFORMATION

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