

Why Some Billion-Dollar Jury Verdicts Are Wrong as a Matter of Law

The Federal Circuit's use of the reasonable royalty provision as a disgorgement-like remedy is contrary to 35 U.S.C. Section 284.

Patent-damages law is generally understood to allow a patentee that proves infringement to recover an award of reasonable royalties, even if the patentee is uninjured by the infringement. This understanding stems from the U.S. Court of Appeals for the Sixth Circuit's 1978 decision in *Panduit v. Stahlin Bros. Fibre Works*, which without analyzing the damages statute or citing Supreme Court caselaw, asserted that "when actual damages, e.g., lost profits, cannot be proved, the patent owner is entitled to a reasonable royalty."

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Authors



[Grant E. Kinsel](#)

Partner

GKinsel@perkinscoie.com [206.359.3516](tel:206.359.3516)

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