

# PATENT INFRINGEMENT

## PATENT DAMAGES EXPERTISE

---



### Patent Infringement

Patents symbolize ownership of a design concept. They represent right of ownership over **intellectual property**, and belong to the inventor of a new device, a software function, or other such item reflecting sufficient innovative and creative thinking as to be uniquely their own idea. They may also be extended for a new design process, a new material, or even a newly discovered or engineered type of plant. For a sufficiently complicated item or process, or for particularly unique innovations, individual components of large devices and complicated processes will often be covered by their own separate patents. These may require licensing from multiple different parties. This sometimes makes for extremely complicated cases when it comes to patent infringement and the resulting litigation.

**Patent infringement** involves the crime of marketing, using, or incorporating a patented item, material, or process, without receiving authorization to do so, and without making the necessary royalty payments. It is injurious to the plaintiff in terms of lost royalties, future lost royalties, and potential damage to the reputation of their brand – or two the plaintiff themselves. For instance, the plaintiff has no control over the quality or the integrity of the product released into which their patent has been illegally incorporated.

Damages for a **patent infringement** case may appear to be deceptively simple to determine, on the surface. Legally, any judgment made in such a case must be sufficient to compensate for the full effect of the infraction upon the plaintiff. At a minimum, the defendant in must to pay damages amounting to “at least” a reasonable royalty for the use of the plaintiff’s invention. The process by which a resolution is ultimately reached is anything but simple, however, as this article on the patent statute demonstrates.

The process involved in determining patent infringement damages works as follows, in a general sense. The full process, as it is described in the aforementioned article, is much more deeply involved.

- ❖ **Lost profits** need to be evaluated with regard to the plaintiff. In a patent infringement case, this is far from being a sure bet. While basic logic seems to suggest that anything involving the use of their parent in an appropriate context would have generated additional profits for the plaintiff, it falls upon them to demonstrate that they would in fact have made additional profits if not for the specific infringement involved.
- ❖ **Reasonable royalties** may be awarded. This measure depends heavily upon whether or not a plaintiff can establish lost profits “but for” the patent infringement. Where this cannot be established, but the plaintiff’s intellectual property rights were most definitely violated, they are due damages in the form of a reasonable royalty for the use of their property.

Many factors play into the amount of damages awarded. For example, a court may award up to three times the actual amount of damages determined if it is found that the defendant was willful in their advance knowledge of their patent violation. Also,

violations which are six years old or older at the time that a complaint is filed are typically not subject to damages.

## **Working with Patent Damages Experts**

As was previously mentioned, patent infringement is a complicated issue. One of the most common tactics in any intellectual property case of a particular magnitude is to bury the other side with paperwork, and this is a particularly popular strategy with patent infringement. The amount of information that needs to be gone over can be enormous, and it requires the services of a patent damages expert to make sense of all of the numbers.

In the event that an infringement can be proven, an expert witness can assist in the **determination of damages**. They may evaluate lost value with regard to a product, brand, or corporation, and help to assess any damage incurred to a business' reputation. It may even be possible to establish a lucrative, ongoing relationship, whereby the defendant – having trespassed upon the plaintiff's intellectual property – may now continue to use it. In this case, they will be paying appropriate licensing fees and royalties for the use of the plaintiff's intellectual property.

Patent infringement cases are particularly complicated in the modern, digital arena. There, patents for aspects of particular software functionality often overlap, and it can be very unclear as to who actually owns the patent for a particular piece of software. So-called "**patent trolls**" purchase, file for, and distribute rights to various competing patents which may cover the exact same concept. This requires that a determination be made as to which patent was filed the earliest, as well as ascertaining rightful ownership. When some of these corporations consist of little more than a rented room with a desk – which may never actually be occupied – this is not the easiest measure to ensure.

## **Rogers DVS for The Best Patent Damages Expertise**

In 2011, Graham Rogers opened Rogers DVS after twenty-four years of experience in intellectual property valuation, the vital process of appraising the value of an item of

intellectual property – including for damages assessment purposes. He offers decades of experience in business and intellectual property damages assessment. Graham Rogers has experience with both traditional and digital properties, and with every type of patent recognized by US law. Graham Rogers' staff at Rogers DVS is fully licensed, certified, and credentialed. Rogers DVS has served as an expert witness in federal, state, and tax courts, and has worked within a wide range of industries. These include such complicated, wide-ranging, and massive industries as healthcare services, the insurance industry, the financial industry, pharmaceuticals, and the digital marketing industry. Graham and his staff can offer expert testimony on your behalf, in support of your claim as to the existence of a patent infringement. They can help you to obtain the damages you are owed in return for the defendant's trespass on your intellectual property.

**Rogers DVS**, led by **Graham Rogers** is an expert witness and consultancy business specializing in IP and Business Valuation, Fraud & Forensics, IP Damages and more. Your business and intellectual property is worth having the best. At Rogers DVS you get personalized attention, service and real experience on your side.

If you have need of a free patent infringement damages consultation, **Contact Rogers DVS today**, and Graham Rogers will personally respond to your inquiry ASAP.