Supreme Court Reverses Apple's $400 Million Damage Award Against Samsung

By: Cato Yang

On December 6, 2016, the Supreme Court ruled unanimously, in an opinion by Justice Sotomayor, that an award of total profits for infringing a design patent need not be calculated based only on the end product sold to an ordinary consumer. More particularly, in the case of a multicomponent product, the damages award may be calculated based on subcomponents of the end product. In *Samsung v. Apple*, the Supreme Court applied this rule to reverse Apple's $400 million damages award against Samsung.

Apple sued Samsung in 2011, alleging that Samsung smartphones infringed Apple's design patents that covered the appearance of the Apple iPhone – generally, the black rectangular case with rounded corners and the arrangement of icons on the screen. The jury found that Samsung infringed the design patents, and awarded $400 million to Apple, which amounted to the entire profit Samsung made from the sales of its infringing smartphones. On appeal to the Federal Circuit, Samsung argued that the damages should have been limited to the infringing screen or case, not the entire smartphone. The Federal Circuit rejected Samsung's argument, reasoning that the Patent Act did not require limiting the damages award to infringing components of the smartphone, because the "innards of Samsung's smartphones were not sold separately from their shells as distinct articles of manufacture to ordinary purchasers."

On appeal, the Supreme Court analyzed the meaning of "article of manufacture" and how it applies to the calculation of the "total profits" awarded for design patent infringement. Section 171 of the Patent Act allows design patent protection to "[w]hoever invents any new, original and ornamental design for an article of manufacture." 35 U.S.C. § 171. Section 289 of the Patent Act provides the remedy for infringement of a design patent – whoever manufactures or sells, without authorization, "any article of manufacture to which [a patented] design or colorable

imitation has been applied shall be liable to the owner to the extent of his total profit." 35 U.S.C. § 289.

The Supreme Court disagreed with the Federal Circuit to the extent that "article of manufacture" in Section 289 covers only an end product sold to a consumer. Instead, the Court interpreted the term "article of manufacture" broadly to mean "simply a thing made by hand or machine." Under this interpretation, the "article of manufacture" in Section 289 encompasses "both a product sold to a consumer and a component of that product, whether sold separately or not." The Supreme Court reversed Apple's damages award based on the improperly narrow meaning of "article of manufacture" applied by the Federal Circuit, and remanded to reanalyze the damages award consistent with the proper, broader meaning of the term.

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The opinion can be found at https://www.supremecourt.gov/opinions/16pdf/15-777_7lho.pdf

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