



## Damages Expert Required to Include All Claimed Elements in the Royalty Base

Jun 23, 2014

Reading Time : 1 min

By: Daniel L. Moffett

The court rejected defendant's arguments. While the court noted that the proper royalty base is often the smallest salable infringing unit to "remove the value of unclaimed elements," defendant "has not cited any precedent permitting the complete removal of the value of claimed elements." The court held that the royalty base must include the value of all claimed elements and excluded the testimony of defendant's damages expert for his failure to use the proper royalty base.

*ThinkOptics, Inc. v. Nintendo of America, Inc.*, 6:11cv00455 (E.D. Tex. June 21, 2014) [Davis, J].

### Categories

District Court

© 2025 Akin Gump Strauss Hauer & Feld LLP. All rights reserved. Attorney advertising. This document is distributed for informational use only; it does not constitute legal advice and should not be used as such. Prior results do not guarantee a similar outcome. Akin is the practicing name of Akin Gump LLP, a New York limited liability partnership authorized and regulated by the Solicitors Regulation Authority under number 267321. A list of the partners is available for inspection at Eighth Floor, Ten Bishops Square,

London E1 6EG. For more information about Akin Gump LLP, Akin Gump Strauss Hauer & Feld LLP and other associated entities under which the Akin Gump network operates worldwide, please see our Legal Notices page.