



Use of Cost Impact Methodology in Calculating Damages Still Requires Apportionment of the Value of the Patented Feature

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The court excluded the opinion because it valued the entire product, rather than the value of the patented component features. The court endorsed the cost impact approach as a useful factor in determining the upper bound of a reasonable royalty, but noted that a reasonable royalty contemplates a hypothetical negotiation . . . at a time before the infringement began. Here, the expert's opinion not only relied on an ex-post valuation of the allegedly infringing inventory, but also valued the inventory in terms of whole product units, rather than the patented component features. Accordingly the opinion ran "afoul of the well-established rule that a patentee may seek only those damages attributable to the infringing features."

Wonderland Nurserygoods Co., Ltd. v. Thorley Industries, LLC, 2-13-cv-00387 (W.D. Pa. October 30, 2015, Order) (Hornak, J.)

Categories

District Court

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