

Russ Emerson in Law360: Attorneys React To High Court's Patent Damages Ruling

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PRACTICES Patents, Intellectual Property

The U.S. Supreme Court Monday decided to discard the Federal Circuit's strict test for awarding enhanced damages in patent cases, finding that the circuit's high bar for patent owners was not justified under the Patent Act. Here, attorneys tell Law360 why the decision is significant...

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“This decision was no surprise. The court continued its pattern of rejecting the Federal Circuit’s brightline tests, as in *KSR*, *eBay*, and *Octane Fitness*, and requiring deference to trial judges’ discretion, as in *Highmark*. Doing away with the two-part test and lowering the evidentiary burden will make it easier for plaintiffs to get enhanced damages, while the higher appellate standard of review will make those awards easier to defend on appeal.”

Excerpted from *Law360*. To read the full article, please [click here](#) (subscription required).