

Russ Emerson Discusses Supreme Court Decision Allowing Patent Owners to Recover Foreign Lost Profits

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PRACTICES Patents, Intellectual Property, Litigation

World Intellectual Property Review, *Law360*, *IPPro Patents* and *Bloomberg BNA Patent Trademark & Copyright Law Journal* quoted Haynes Boone LLP Partner [Russ Emerson](#) in articles covering a U.S. Supreme Court decision that WesternGeco LLC can recover patent infringement damages against competitor, ION Geophysical Corp, for extraterritorial lost profits.

Here is a *World Intellectual Property Review* excerpt:

Russ Emerson, partner at Haynes Boone, said that it will be interesting to see how broadly the court's decision is applied. He noted that the ruling only allows for the recoup of foreign lost profits in cases where domestic acts infringe USC section 271(f)(2).

Although the court's holding is narrow, Emerson said "the reasoning behind that holding is broad: a patentee must be made whole, even if the measure of harm includes foreign consequences of the infringement."

The following excerpt is from *Bloomberg BNA Patent Trademark & Copyright Law Journal*:

The decision is straightforward and "fits an ongoing theme at the Supreme Court, that it will apply standard legal doctrines to patent law."

And from *Law360*:

"To me, the key takeaway is that the holding is narrow, but the reasoning is broad," said Russ Emerson of Haynes Boone LLP, who added that "this is potentially a very big decision. It depends on how broadly the reasoning is applied."

IPPro Patents also featured Emerson in a Q&A profile about the decision:

With the court majority declining to address the issue of proximate cause, might we see further clarification from the US government or lower courts? What could this entail?

I'm not surprised that the court did not address proximate cause. The briefing and argument focused on the broader and more abstract question of whether foreign damages were available for domestic infringement, not whether WesternGeco proved causation.

To read the full *World Intellectual Property Review* article, click [here](#). (Subscription required)

To read the full *Law360* *rel="noopener noreferrer"* article, click [here](#). (Subscription required)

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