

16-1011 WESTERNGECO LLC V. ION GEOPHYSICAL CORP.

DECISION BELOW: 837 F.3d 1358

LOWER COURT CASE NUMBER: 2013-1527, 2014-1121, 2014-1526, 2014-1528

QUESTION PRESENTED:

Under 35 U.S.C. § 271(f), it is an act of patent infringement to supply "components of a patented invention," "from the United States," knowing or intending that the components be combined "outside of the United States," in a manner that "would infringe the patent if such combination occurred within the United States."

Under 35 U.S.C. § 284, patent owners who prevail in litigation are entitled to "damages adequate to compensate for the infringement."

In this case, despite affirming that Respondent was liable for infringement under § 271 (f), the majority of a divided panel of the court of appeals held that Petitioner was not entitled to lost profits caused by the proscribed combination. The court of appeals reasoned that even when Congress has overridden the presumption against extraterritorial application of the law in creating *liability*, the presumption must be applied a second time to restrict *damages*.

The question presented is:

Whether the court of appeals erred in holding that lost profits arising from prohibited combinations occurring outside of the United States are categorically unavailable in cases where patent infringement is proven under 35 U.S.C. § 271(f).

JUSTICE ALITO TOOK NO PART.

MARCH 28, 2018: JUSTICE ALITO IS NO LONGER RECUSED IN THIS CASE.

CERT. GRANTED 1/12/2018