

## Judge Albright Grants in Part Motion for Enhancement of Damages Under 35 U.S.C. § 284, Doubling Damages for CH Lighting and Ruising

AUGUST 15, 2022

On November 24, 2021, plaintiffs Jiaxing Super Lighting Electric Appliance Co., Ltd. and Obert, Inc. filed a posttrial sealed opposed Motion for Enhancement of Damages Under 35 U.S.C. § 284, seeking enhanced damages from CH Lighting Technology Co., Ltd. and Shaoxing Ruising Lighting Co., Ltd. On July 21, 2022, Judge Albright granted in part the plaintiffs' Motion for Enhancement of Damages Under 35 U.S.C. § 284 in a sealed opinion on the motion, followed by a public version of that opinion on August 2, 2022, and an amended order correcting typographical errors on August 16, 2022. Judge Albright found that enhancement of damages from CH and Ruising is warranted, further found that doubling the damages award rather than tripling the damages award is adequate punishment for the level of culpability CH and Ruising have shown, and did not multiply any damages attributed to CH and Ruising for the period between filing an answer and receiving an adverse jury verdict.

On January 10, 2020, plaintiffs Jiaxing Super Lighting Electric Appliance Co., Ltd. and Obert, Inc. sued defendants CH Lighting Technology Co., Ltd., Elliott Electric Supply Inc., and Shaoxing Ruising Lighting Co., Ltd. for infringement of U.S. Patent Nos. 10,295,125; 10,342,078; 10,352,540; and 10,426,003. On November 4, 2021, a jury returned a verdict finding infringement by all defendants and that the infringement by CH Lighting and Ruising was willful. The plaintiffs requested that the Court enhance the defendants' damages pursuant to 35 U.S.C. § 284.

Pursuant to 35 U.S.C. § 284, "the court may increase the damages up to three times the amount found or assessed." Judge Albright explained the process for enhancing damages as follows: the Supreme Court found in *Halo Electronics, Inc. v. Pulse Electronics, Inc.*, 579 U.S. 93, 103 (2014), that "[t]he pertinent language of § 284 contains no explicit limit or condition on when enhanced damages are appropriate, and this Court has emphasized that the 'word "may" clearly connotes discretion.'" The Supreme Court noted that courts have "generally reserved" enhancement for "egregious cases of culpable behavior" and that such cases typically involve conduct that is "willful, wanton, malicious, bad-faith, deliberate, consciously wrongful, flagrant, or—indeed—characteristic of a pirate." *Id.* at 103–04, 107.

Once a jury finds that a defendant's infringement was willful, the Court must consider whether that alone justifies enhancement. The Federal Circuit has endorsed consideration of a list of factors that the Federal Circuit established in *Read Corp. v. Portec, Inc.*, 970 F.2d 816 (Fed. Cir. 1992), to "assist the trial court in evaluating the degree of the infringer's culpability and in determining whether to exercise its discretion to award enhanced damages at all, and if

so, by how much the damages should be increased.” *WCM Indus., Inc. v. IPS Corp.*, 721 F. App’x 959, 972 (Fed. Cir. 2018).

Upon considering the *Read* factors, Judge Albright concluded:

[T]his case is egregious and therefore enhancement is warranted here based on: the Jury’s willfulness finding; the fact that this case was not very close; CH and Ruising’s disregard for their discovery obligations; Jack Jiang’s mischaracterization of this Court’s ruling regarding inequitable conduct; Jack Jiang and Radulescu’s glowing press release; and CH and Ruising’s motivation to harm Plaintiffs. The Court finds that doubling the damages award is adequate punishment for the level of culpability CH and Ruising have shown.

Accordingly, Judge Albright doubled the damages award of CH and Ruising except for the period between filing an answer and receiving an adverse jury verdict.

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## Author

Danielle Williams

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Danielle Williams

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