

Federal Circuit Upholds Exclusion of Damages Expert Testimony

Article By:

Matthew M. Karas

Christina Ji-Hye Yang

Elizabeth D. Ferrill

In [*MLC Intellectual Property, LLC v. Micron Technology, Inc.*, No. 2020-1413 \(August 26, 2021\)](#), the Federal Circuit affirmed the U.S. District Court for the Northern District of California's decision to exclude testimony from MLC's damages expert.

In the underlying district court case, MLC's expert, Mr. Milani, offered a damages calculation based separately on a comparable licensing approach and a smallest saleable patent practicing unit (SSPPU) approach. Micron filed a motion in limine and a motion to strike, to limit Mr. Milani's testimony, as well as a *Daubert* motion to exclude the testimony entirely. The district court granted all three motions.

The Federal Circuit affirmed. Regarding the motion in limine, the Federal Circuit agreed that Mr. Milani made unsupported assertions concerning how lump sum agreements were tied to a 0.25% royalty rate. With the motion to strike, the Federal Circuit found that MLC had not provided all the extrinsic evidence Mr. Milani relied on, upholding the district court. Finally, the Federal Circuit affirmed the granting of Micron's *Daubert* motion because Mr. Milani did not apportion damages based on nonpatented features and the agreements presented could not remedy this insufficiency.

© 2024 Finnegan, Henderson, Farabow, Garrett & Dunner, LLP

National Law Review, Volumess XI, Number 245

Source URL: <https://natlawreview.com/article/federal-circuit-upholds-exclusion-damages-expert-testimony>