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The Federal Circuit Awards New Trial on Damages

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In [Omega Patents, LLC v. CalAmp Corp. No. 20-1793 \(Fed. Cir. Sept. 16, 2021\)](#), the Federal Circuit reviewed several appealed issues including an award of damages.

At the district court's trial, the jury awarded Omega \$5.00-per-unit royalty, totaling \$4,586,110. CalAmp appealed.

On appeal, the Federal Circuit concluded the district court abused its discretion in denying CalAmp's request for a new trial on damages. The Court found two reasons warranting a new trial. First, the district court precluded CalAmp's damages expert from offering rebuttal testimony, which was an abuse of discretion when Omega's original *Daubert* motion had not addressed his qualifications as a damages expert. Second, the Court found that the jury's award of damages was unsubstantiated. Although the patent covered the entire infringing product, as a matter of law Omega was required to apportion between the improved and conventional features of the accused product, which the Court found it failed to do. Supporting its royalty rate Omega offered eighteen licenses. Each of the offered licenses involved multiple patents, but Omega was unable to distinguish the single-patent royalty at issue from the exemplary multi-patent licenses. Therefore, the Federal Circuit determined the district court abused its discretion in denying CalAmp a new damages trial and remanded for further proceedings.

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