

Cert Granted to Consider Whether Lost Profit Damages May Include Overseas Activities

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The Supreme Court of the United States has agreed to consider whether US patent owners can recoup some profits lost because of infringement that occurs outside of the United States. *WesternGeco LLC v. ION Geophysical Corp.*, Case No. 16-1011 (Supr. Ct., Jan. 12, 2018) (*certiorari* granted).

WesternGeco [petitioned](#) the Supreme Court for reversal of a US Court of Appeals for the Federal Circuit decision reducing a damages award by \$93 million—damages found by a jury to represent lost profits as a consequence of ION Geophysical’s oil exploration activities outside the United States ([IP Update, Vol. 19, No. 10](#), and [Vol. 18, No. 8](#)).

In its decision, the Federal Circuit explained that the presumption against extraterritorial application of US law has “particular force” in patent law and bars recovery of damages for overseas infringement.

The question presented is whether a patentee that has proved a domestic act of patent infringement may recover lost profits that it would have earned outside of the United States if the infringement had not occurred.

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