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## **Calculation Method and Development Trends towards Reasonable Royalty Damages for U.S. Patent Infringement**

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### Abstract

This article firstly elaborated legal regulations about infringement damage compensation with American patents and then facilitated with qualitative analysis of judgment content to give a brief induction of the cases about Lost Profit, Reasonable Royalty, Comparable Licenses, Apportionment and Entire Market Value Rule, and take this opportunity to specify the calculation way of reasonable royalty used for American court. As judgment was entered under results for applicable law about some case conditions and not comprehensive viewpoint for reasonable royalty, and some judgments may have different explanation under the same legal principle between two judgments, why did it result from? To answer this question, we should firstly probe the initial intention for each legal principle, and then audit the differences between each two case facts before it properly applied for each legal principle. This article tried to classify and incorporate into different case types for formulating conceptual framework for reasonable royalty, as well as raise calculation mode for reasonable royalty.

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For recent development trends towards reasonable royalty, namely the calculation mode of royalty for standard-essential patents and ongoing royalties, this Article also gave analysis and introductions. While calculating royalties for standard-essential patents, it was not exactly the same as that of reasonable royalty, especially whether patentee fulfills fair, reasonable and nondiscriminatory obligation or whether it resulted patent holdup, royalty stacking and caused impairment for competition, damage of consumer benefits, which has become the focus in the American scholars and pragmatic industry in recent years, the United States District Courts have diversified statuses about calculation of such royalty, and the Federal Circuit gave the guiding principles at *Ericsson v. D-Link* case. In addition, in regards to the issue of infringer still continues to infringe Ongoing Royalties after jury verdict and affirmed infringement for patent rights, the Federal Circuit Court did not explicitly indicate calculation method even through it expressed several principles, this article analyzed the comments that gave by the judges at the Eastern District of Texas about the case of *Mondis Technology Ltd. v. Chimei InnoLux Corp.*, as well as the different viewpoints made by scholars, so as to set up calculation framework for ongoing royalty, and raised for critical advice.

**Keywords:** Reasonable Royalty, Apportionment, The Entire Market Value Rule, Standard-essential Patents, Ongoing Royalties