

# 美國專利懲罰性賠償解析 ——以 2016 年聯邦最高法院 Halo Electronics Inc. v. Pulse Electronics Inc. 為中心

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摘 要

懲罰性賠償，意指於填補權利人損害外，由法院再行提高侵權人之損害賠償數額。於大陸法系國家，由於傳統認為有損害斯有賠償，對於英美法系懲罰性賠償之概念尚無法完全接受，因此，導致我國專利法懲罰性賠償於 2011 年至 2013 年間反覆立法，實務在操作上也尚未臻成熟階段。反觀美國專利法制，懲罰性賠償之發展已將近有兩個世紀之久，雖於法條上不同於我國明定以侵權人「故意」為適用前提，實務上仍發展出以侵權人「蓄意」（willful）為要件，美國聯邦最高法院並於 2016 年做出 *Halo Electronics Inc. v. Pulse Electronics Inc.* 案，推翻適用將近 10 年的 *In re Seagate Technology, LLC* 案之兩階段測試法，重新提出「蓄意」之認定標準。本文即以上開判決為中心，詳述美國專利懲罰性賠償之發展歷程，以及本案可能帶來之影響，最後，以美國法為借鏡，提出我國專利懲罰性賠償之設立有其正當性，但不

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應以填補損害為主要目的，實務對於相關酌定標準之運作仍有待未來持續發展；另外，我國廠商對於美國此項最新發展亦不能不注意，以避免遭法院認定為「蓄意」，而同負懲罰性賠償之連帶責任。

關鍵詞：懲罰性賠償、三倍損害賠償、故意侵權、專利侵權、美國專利法

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# **The Analysis on U.S. Punitive Damages of Patent Infringement: Focusing on Halo Electronics Inc. v. Pulse Electronics Inc.**

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## Abstract

Punitive damage means that the court can increase the damages after fully compensating the infringement. The concept of punitive damage hasn't been well accepted in civil law system because the traditional jurisprudence of damages in civil law is compensatory damages. And that leads to the repeated elimination and enactment of punitive damage in R.O.C. Patent Law within the last two years, the court also has difficulties in utilizing it. Punitive damage in the U.S. patent law has been developed for nearly two centuries. Unlike R.O.C. Patent Law, the U.S. patent law doesn't expressly require "willfulness" as prerequisite, but it has been accepted through the practice of law. In 2016, the U.S. Supreme Court in *Halo Electronics Inc. v. Pulse Electronics Inc.* has held that the test used since 2007 for awarding punitive damage for willful patent infringement is not consistent with the Patent Act, by clarifying the proper standard for determining willful infringement. This article aims to focus on *Halo*, introducing the development of punitive damages in

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the U.S. patent law and the impact of *Halo*. Finally, this article suggests that punitive damage should remain enacted in Taiwan and be awarded for a punitive purpose, but the standard for punitive damage still needs future relevant cases in order for a standard to be developed. Taiwan companies should also be aware of the development of *Halo* to avoid joint and several liabilities.

**Keywords:** Punitive Damage, Treble Damages, Willful Infringement, Patent Infringement, U.S. Patent Law