

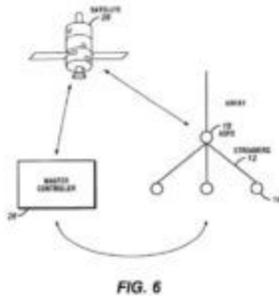
# Avast Infringers! Supreme Court Allows US Patentholders to Recover Profits for Sales Lost to Infringers Overseas

Client Advisories

06.25.2018

In yet another reversal of the Federal Circuit Court of Appeals, the United States Supreme Court on June 22 decided in the case titled WesternGeco LLC v. Ion Geophysical Corp. that the provision of the patent statute that extends findings of patent infringement to the supply of American-made components for combination into products overseas allows the patentholder to recoup profits lost to an infringer even though the infringer's sales were made outside of the United States.

U.S. Patent Feb. 16, 2004 Sheet 6 of 6 US 6,804,838 B2



In a 7-2 decision that pitted strict constructionists against each other, Justice Thomas wrote that, notwithstanding the presumption that federal statutes “apply only within the jurisdiction of the United States,” the “conduct relevant to the statutory focus in this case is domestic,” reversing the judgment of and remanding the case to the Federal Circuit, even as Justice Gorsuch vigorously dissented.

The sophisticated technology at issue in WesternGeco relates to methods and systems for controlling the movement and positioning of a series of streamers towed in an array behind a ship sailing on the high seas. These streamers emit acoustic signals and detect the returning signals that reflect from the ocean floor so that collected data can be used to create a map of the subsurface geology, helping oil companies analyze underwater natural resource formations to find and exploit reserves of oil and gas beneath the ocean floor.

While there is no citation to any of the patents at issue\* in the Supreme Court opinion, the Court decided that a jury award of over \$12 million in royalties as well as a second award of over \$93 million in lost profits can be supported by the US Patent Act, even though the Federal Circuit had disallowed the second award for extraterritorial lost profits.

The Statute: Section 271(f)(2) of the Patent Act provides: “Whoever without authority supplies or causes to be supplied in or from the United States any component of a patented invention that is especially made or es

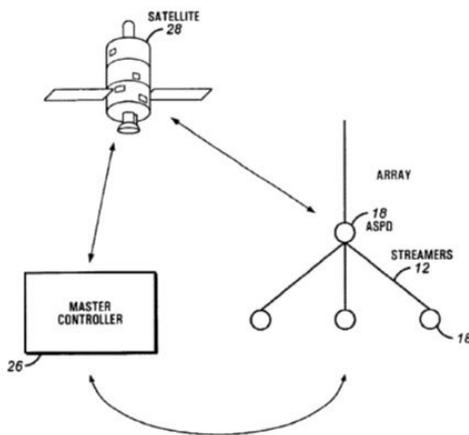


FIG. 6

## Attachments

Client Advisory- Avast Infringers! Supreme Court Allows US Patentholders to Recover



# Profits for Sales Lost to Infringers Overseas

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