



UNIVERSITY OF  
MARYLAND  
SCHOOL OF LAW

**PATENT LAW  
UPDATE**

***Bose Corp.  
v.  
JBL, Inc.***

No. 01-1054  
Federal Circuit  
Dec. 17, 2001

***“[T]he entire market value rule permits recovery of damages based on the value of a patentee’s entire apparatus containing several features when the patent-related feature is the ‘basis for customer demand.’”***

On December 17, 2001, the Federal Circuit affirmed the district court’s judgment following a bench trial that JBL infringed U.S. Patent No. 5,714,721 and upheld the district court’s award of \$5,676,718.32 in damages. The patented technology related to a loudspeaker system housing a certain design of port tube, which can radiate acoustic energy from inside the loudspeaker enclosure to an area outside the loudspeaker enclosure at high, crisp audible levels with minimal audible distortion. With respect to the district court’s award of infringement damages based upon a reasonable royalty, the Federal Circuit noted:

Finally, while JBL does not appeal the district court’s lost profits determination, it argues that the court erred in determining the applicable royalty base because it represents an amount that the parties would never have agreed upon. Specifically, JBL asserts that the royalty was calculated based on the entire value of the loudspeaker systems incorporating the accused ports, even though they only comprised a small component of the system.

A patentee is entitled to no less than a reasonable royalty on an infringer’s sales for which the patentee has not established entitlement to lost profits. In determining the appropriate basis for calculating a royalty base the court may use the “entire market value rule.” “We have held that the entire market value rule permits recovery of damages based on the value of a patentee’s entire apparatus containing several features when the patent-related feature is the ‘basis for customer demand.’”

The district court found that the invention of the ’721 patent inextricably worked with other components of loudspeakers as a single functioning unit to provide the desired audible performance. The court also found that the invention of the ’721 patent improved the performance of the loudspeakers and contributed substantially to the increased demand for the products in which it was incorporated. Bose presented un rebutted evidence that the invention of the ’721 patent was integral to the overall performance of its loudspeakers by way of the elliptical port tube, which eliminated port noise and reproduced improved bass tones. JBL’s marketing executive also acknowledged that improved bass performance was a prerequisite for JBL’s decision to go forward with manufacturing and selling certain loudspeakers. Bose presented evidence detailing its efforts to market the benefits of its loudspeakers using the invention of the ’721 patent and provided testimony on its increase in sales in the year following the introduction of its speakers containing the invention. All of this was substantial evidence to support an award of a reasonable royalty based upon the entire value of the loudspeakers.