

Fate Of Patent Awards Over \$1B Shows Hurdles In Apple Case

By **Ryan Davis**

Law360 (October 1, 2026, 10:41 PM EDT) -- Taction Technology Inc. has secured the largest patent damages verdict in history with a \$5.7 billion win against Apple Inc., but it may face an uphill battle to collect, since nearly every previous patent judgment over \$1 billion was later reduced or overturned.

The historic award on Sept. 25 in a dispute over haptic vibration technology in the iPhone and Apple Watch is more than double the previous damages record. It represents a noteworthy victory against the tech titan for Taction, a small headphone company based in San Diego, where the trial took place.

But previous 10-figure awards faced extensive scrutiny on posttrial motions or appeal, and hardly any of them survived in the form handed down by the jury, although some resulted in settlements.

"Whenever there's an eye-popping jury verdict, you have to take it with a little bit of a grain of salt, because it's just so rare that those are ultimately upheld," said Michael Friedland of Friedland Cianfrani LLP.

Patent verdicts can be attacked on many grounds, not only the damages methodology, an area where the Federal Circuit has tightened rules in recent years, but also on whether the patents were correctly found to be infringed and not invalid. Sustaining the verdict means overcoming all those challenges, and it appears that larger awards spur even closer examination of the issues.

Following a patent verdict, the losing side "is going to have their laundry list of complaints about different issues, whether it be infringement, validity or something else," said Amanda Tessar of Holland & Hart LLP. "But when you have these huge, huge awards, those numbers just dominate, and I think in some instances, they affect how courts view the other issues."

Law360's review of the previous billion-dollar patent verdicts shows that district judges or the Federal Circuit have found fault with those aspects of the decisions and more in almost every instance and declined to sustain them, indicating a potentially long road ahead for the Taction case.

The challenges faced by large patent judgments are also illustrated in a 2025 study by Bowman Heiden of the Haas School of Business at the University of California, Berkeley. He analyzed every Federal Circuit decision between 2010 and 2025 on a patent damages award and found a "cliff effect," where the greater the award, the less likely it is to be affirmed.

The study found that not a single judgment exceeding \$500 million was upheld on appeal during the 15-

year period it examined. During that time, the Federal Circuit affirmed awards of over \$100 million 30% of the time, while 42% of those under \$100 million were upheld, according to the report.

That data indicates "it's incredibly likely" in the Taction case that "the damage award is not going to stand at the number it currently stands at," said Kristen Osenga, chief policy counselor of the Inventors Defense Alliance.

However, she said "that doesn't mean it's a bad case," and that if the merits are upheld, Taction will still likely be able to recover damages.

A History of Roadblocks

Part of the reason large patent damages tend not to stick may be that when faced with a substantial award, lawyers are "going to turn over every single stone making sure that they're making the very best argument," said Friedland of Friedland Cianfrani.

The district judge will also want to be very confident that they and the jury got everything right before entering final judgment on a massive award, and "it's going to get the same level of attention and scrutiny at the Federal Circuit," he said.

While each case has a distinct fact pattern, similar arguments have successfully been deployed by defendants to reduce or overturn previous 10-figure patent awards, including the record holders from prior to last week.

The previous largest patent verdict, a \$2.54 billion award against Gilead Sciences Inc. in 2016 for infringing an Idenix Pharmaceuticals Inc. hepatitis C drug, was thrown out by the judge, who held the patent invalid for not enabling a skilled person to make and use the invention. That finding was affirmed on appeal.

A \$2.18 billion verdict against Intel Corp. from 2021 on two VLSI Technology LLC computer chip patents was vacated on appeal two years later, when the Federal Circuit faulted the damages methodology and found that one patent was not infringed. The court ordered a damages retrial, which hasn't yet taken place.

Other 10-figure verdicts failed to survive due to later findings of noninfringement, invalidity or flawed damages theories, as well as different issues, like a judge's stock conflict.

Only one such judgment was not disturbed in some way: A \$1 billion verdict against DuPont Co. on Monsanto seed patents in 2012 led the parties to settle for \$1.75 billion months after trial.

Apple's Next Moves

Briefs filed by Apple during the Taction trial detail some of the arguments that will likely arise in posttrial motions seeking to undo the verdict, which are due Oct. 16, or later on appeal. The company maintained the jury was not given sufficient evidence to support a damages finding, and also that Apple didn't infringe and Taction's patents are invalid.

Part of Apple's argument is based on the judge's exclusion of an opinion from Taction's damages expert about what a reasonable royalty would be for the patents. Apple also said Taction didn't provide key

details about another company's license to the patents as part of its damages theory, or account for the value of the technology to Apple's devices, leaving the jury with "nothing but speculation."

Taction responded that the evidence was "more than sufficient" for the jury to estimate damages, even without expert testimony.

Attorneys said the sufficiency of the evidence will likely be a key issue going forward, given the Federal Circuit's focus on ensuring that damages amount to a reasonable royalty that is apportioned to cover only the value of the patented features.

"Even with a really, really good expert, it's so difficult to cross all the t's and dot all the i's that you need to, to prove reasonable royalty to the Federal Circuit's satisfaction," said Friedland, adding that could be even harder if key evidence was excluded, as Apple contends.

Tessar of Holland & Hart said determining the value of individual features like vibration notifications, as is required under patent damages law, can be "really hard to understand within the context of a very complicated technical device like an iPhone."

Given the outsize verdict, it's possible the jury was "very confused about what it was supposed to do and what the numbers were," she said.

Damages Landmark

Whatever happens next, "this is certainly a landmark case for patent damages: There's never been anything like it," said Kevin Schubert of McKool Smith.

"For people that are on the patent owner's side, I think it creates some optimism in the market that juries are willing to award damages of this number and are willing to find these patents to have been that significant and that impactful," he said.

One unusual aspect of the case is the public disclosure that Taction got litigation funding to bring it. Burford Capital, which funded the case, said after the verdict that it would be entitled to \$1.4 billion of the award if it stands as is, while pointing out that "very few large patent verdicts survive the post-verdict process intact."

Osenga of the Inventors Defense Alliance, which advocates for strong intellectual property rights and the ability of inventors to access litigation funding, said a takeaway from the verdict should be that "smaller or less-funded innovators do have good cases that do deserve their day in court, and that's why litigation funding really needs to be made available."

"Sometimes you do need to go up against Apple, and sometimes you're going to win," Osenga said. "And some of our innovators may not have the resources to even get into the courtroom door."

The case is Taction Technology Inc. v. Apple Inc., case number 3:21-cv-00812, in the U.S. District Court for the Southern District of California.

--Editing by Jay Jackson Jr. and Lakshna Mehta.

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