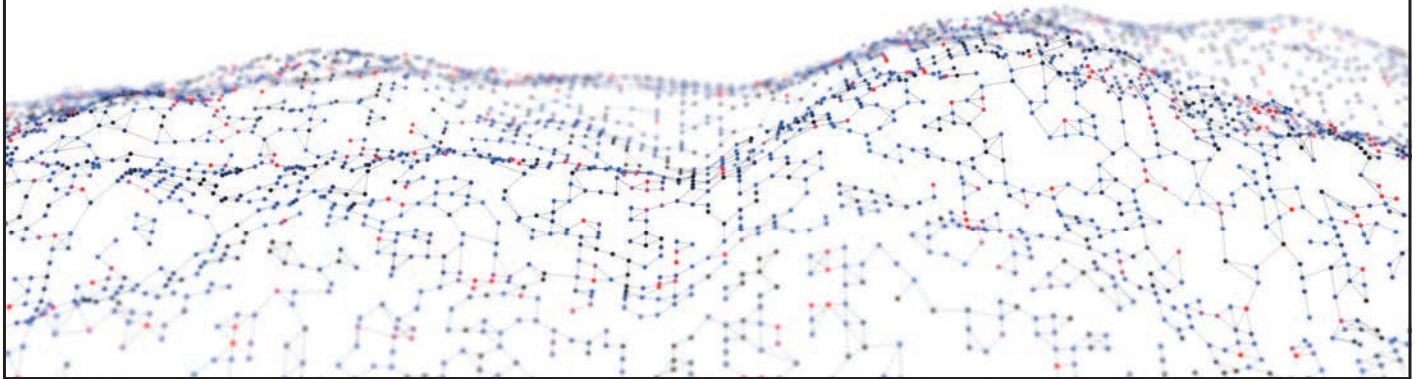


Geographic Limits on Patent Damages

Sharre Lotfollahi, Nov. 2019



1

WesternGeco L.L.C. v. Ion Geophysical Corp.

138 S. Ct. 2129 (2018)



2

Facts

- WesternGeco owns patents for a system used to survey the ocean floor. Does not sell its tech or license to competitors.
- ION sold components manufactured in the U.S. and shipped to companies abroad for assembly into a competing system.
- WesternGeco claimed competing system caused lost contracts for services to be performed abroad.
- Jury awarded lost profits (\$93M) and reasonable royalty damages (\$12M) – only lost profits challenged on appeal.

3

Patent Statute

• Infringement, § 271

- (a): makes, uses, offers to sell, or sells any patented invention, within the U.S. or imports into the U.S. any patented invention
- (f)(1) and (2): supplies in or from the U.S. unassembled components lacking substantial noninfringing use with intent for components to be combined outside the U.S. in a way that would have infringed if it occurred within the U.S.
- **Damages, § 284:** damages adequate to compensate for the infringement, but in no event less than a reasonable royalty

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