



## eBay: “Well-Established” Four-Factor Test

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[eBay, Inc. v. MercExchange, L.L.C.](#)  
Supreme Court of the United States  
March 29, 2006. Argued May 15, 2006.  
No. 05-1363

**Reporter**  
547 U.S. 388, 126 S. Ct. 1037, 164 L. Ed. 2d 640; 2006 U.S. LEXIS 3972; 547 U.S. 428; 27 ALR 5th 24-685; 39 Fla. L. Weekly Fed. 5 197  
EBAY INC., et al., Petitioners v. States Court of Appeals for the Federal Circuit, MERCEXCHANGE, L.L.C.

**Prior History:** ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT.  
[MercExchange, L.L.C. v. eBay, Inc., 401 F.3d 1273, 309 U.S. App. LEXIS 4508 \(1st Cir. 2005\).](#)

**Disposition:** Vacated and remanded.

**Core Terms**  
patent, injunction, district court, injunctive relief, infringement, four-factor cases, courts, eBay, permanent injunction, categorical, principles, disputes, com. permanent injunctive relief, equitable discretion, principle of equity, right to exclude, patent holder, general rule, license

**Case Summary**  
**Procedural Posture**  
In a patent infringement suit, a jury found that respondent patent holder's patent was valid, that petitioner Web site operators had infringed that patent, and that an award of damages was appropriate. The United States District Court for the Eastern District of Virginia denied the holder's motion for permanent injunctive relief. The United

**Overview**  
According to well-established principles of equity, a plaintiff seeking a permanent injunction must satisfy a four-factor test before a court may grant such relief. A plaintiff must demonstrate: (1) that it has suffered an irreparable injury; (2) that remedies available at law, such as monetary damages, are inadequate to compensate for that injury; (3) that, considering the balance of hardships between the plaintiff and defendant, a remedy in equity is warranted; and (4) that the public interest would not be disserved by a permanent injunction.

**Outcome**

According to well-established principles of equity, a plaintiff seeking a permanent injunction must satisfy a four-factor test before a court may grant such relief. A plaintiff must demonstrate: (1) that it has suffered an irreparable **[\*\*\*646] injury**; (2) that remedies available at law, such as monetary damages, are inadequate to compensate for that injury; (3) that, considering the balance of hardships between the plaintiff and defendant, a remedy in equity is warranted; and (4) that the public interest would not be disserved by a permanent injunction.

*eBay v. MercExchange*, 547 U.S. 388, 391 (2006)

A Decade of eBay: An Analysis of the Irreparable Harm Factor 3

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## eBay: No “Broad Classifications” Permitted

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**Overview**  
Although the District Court recited the traditional four-factor test, [275 F. Supp. 2d, at 711](#), it appeared to adopt certain expansive principles suggesting that injunctive relief could not issue in a broad swath of cases. Most notably, it concluded that a “plaintiff’s willingness to license its patents” and “its lack of commercial activity in practicing the patents” would be sufficient to establish that the patent holder would not suffer irreparable harm if an injunction did not issue. [Id., at 712](#). But traditional equitable principles do not permit such broad classifications.

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*eBay v. MercExchange*, 547 U.S. 388, 393 (2006)

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## Federal Circuit: *eBay* (2006) — *Apple I* (2012)

Case	Decision	Holding
2008	2008	2008
<ul style="list-style-type: none"> <li><i>Innogenetics, v. Abbot Labs.</i></li> </ul>	<ul style="list-style-type: none"> <li>Vacated grant of injunction</li> </ul>	<ul style="list-style-type: none"> <li>Cannot claim irreparable harm and damages for future sales</li> </ul>
<ul style="list-style-type: none"> <li><i>Voda v. Cordis Corp.</i></li> </ul>	<ul style="list-style-type: none"> <li>Affirmed denial of injunction</li> </ul>	<ul style="list-style-type: none"> <li>Cannot claim harm to licensee</li> </ul>
<ul style="list-style-type: none"> <li><i>Broadcom v. Qualcomm</i></li> </ul>	<ul style="list-style-type: none"> <li>Affirmed grant of injunction</li> </ul>	<ul style="list-style-type: none"> <li>Can receive an injunction even without practicing invention</li> </ul>
<ul style="list-style-type: none"> <li><i>Acumed v. Stryker</i></li> </ul>	<ul style="list-style-type: none"> <li>Affirmed grant of injunction</li> </ul>	<ul style="list-style-type: none"> <li>Can receive an injunction even with existing licenses</li> </ul>
2010	2010	2010
<ul style="list-style-type: none"> <li><i>i4i v. Microsoft</i></li> </ul>	<ul style="list-style-type: none"> <li>Affirmed grant of injunction</li> </ul>	<ul style="list-style-type: none"> <li>Lost market share supports finding of irreparable harm</li> </ul>
2011	2011	2011
<ul style="list-style-type: none"> <li><i>Robert Bosch v. Pylon Mfg.</i></li> </ul>	<ul style="list-style-type: none"> <li>Reversed denial of injunction</li> </ul>	<ul style="list-style-type: none"> <li>Circumstantial evidence that infringement caused at least some portion of lost market share is sufficient</li> </ul>

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## *Bosch: eBay Ended Presumption of Irreparable Harm*

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 As of January 13, 2016 5:52 PM EST

**Robert Bosch LLC v. Pylon Mfg. Corp.**  
 United States Court of Appeals for the Federal Circuit  
 October 13, 2011. Decided  
 2011-1096

**Reporter**  
 659 F.3d 1142, 2011 U.S. App. LEXIS 20700; 100 U.S.P.Q.2D (BNA) 1656  
 ROBERT BOSCH LLC, Plaintiff-Appellant, v. PYLON MANUFACTURING CORP., Defendant-Appellee.

**Prior History:** [\*1] Appeal from the United States District Court for the District of Delaware in Case No. 08-CV-542; Judge See J. Robinson. *Robert Bosch LLC v. Pylon Mfg. Corp.*, 748 F. Supp. 2d 383, 2010-1, S. Dist. LEXIS 116674 (D. Del., 2010).

**Disposition:** REVERSED AND REMANDED.

**Core Terms**  
 Pylon, district court, infringement, injunction, blades, irreparable harm, Patent, beam, permanent injunction, parties, patent, eBay, injunctive relief, competitors, wages, irreparable, cases, damages, agencies, issues, channels, compete, factors, relevant market, behavior, equitable, sets, satisfy the judgment, market share, commands.

**Case Summary**  
 Plaintiff-appellant patented sought review of an order issued by the United States District Court for the District of Delaware that denied its post trial motion for entry of a permanent injunction against defendant-appellee, an alleged infringer of

**Overview**  
 Plaintiff and alleged in the sale of beam was previously supply purchased from the court determined the appropriate. The jury valid claims of the moved for entry of However, the district court of judgment will failed to demonstrate of overwhelming evidence was no harm to who have concluded the irreparable harm. All claimed loss of market other competitors, if infringer secured the larger market share, the remaining equitable factors, on balance, favored entry of a permanent injunction. The alleged infringer's financial instability also should have been considered. On remand, the alleged infringer remained free to seek a stay of the injunction and, if successful, post an appropriate bond.

**Outcome**  
 The order denying a permanent injunction was reversed and remanded with instructions to enter

We take this opportunity to put the question to rest and confirm that eBay jettisoned the presumption of irreparable harm as it applies to determining the appropriateness of injunctive relief.

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*Robert Bosch LLC v. Pylon Mfg. Corp.*, 659 F.3d 1142, 1149 (Fed. Cir. 2011)

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11<sup>th</sup> Annual Advanced Patent Law Institute session  
"Trends in Injunctive Relief"