Kilpatrick

5 KEY TAKEAWAYS

Patent Damages: An Overview and What the Future May Hold

Kilpatrick's Andie Anderson and Kevin Bell recently presented on the topic of **"Patent Damages: An Overview and What the Future May Hold"** during the firm's annual "SKI-LE" in Beaver Creek, Colorado. Andie and Kevin discussed what in-house counsel needs to know about patent damages – from reasonable royalties to lost profits. In addition, they gave a preview of *Ecofactor*, an *en banc* Federal Circuit case that could change how reasonable royalty evidence is presented at trial.

Key takeaways from the presentation, include:

1. There are multiple forms of damages available, but maintaining accurate and up to date accounting records are key to pursuing them.

2. There is no magic book of proper royalty rates, and each rate will be determined on a product-by-product and patent-by-patent basis.

3. If you sell products, mark those products with your patent number.

4. Make use of the virtual marking option to keep your product and patent portfolio up to date.

5. Extraterritorial sales *can* be pursued with the proper litigation strategy.

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