

What \$5.7B Apple Verdict Reveals About Patent Risk

By **Michael Dorfman** (October 21, 2026, 5:28 PM EDT)

On Sept. 25, a federal jury in the U.S. District Court for the Southern District of California **found** in Taction Technology Inc. v. Apple Inc. that Apple infringed two Taction patents covering haptic and vibration technology and returned a \$5,721,961,750 damages verdict.[1]

The verdict serves as a reminder of a fundamental reality in patent litigation: When a patented feature — even one representing only a small portion of the overall product — is incorporated into hundreds of millions or billions of units, it can create enormous financial exposure.

The headline figure is striking, but the more interesting questions concern what a verdict of that magnitude reveals about patent risk before and after trial. How likely is such an award to survive appellate review? Could earlier invalidity or design-around strategies have avoided or limited exposure? And how should companies reassess risk once a billion dollar verdict is returned? The Apple verdict provides a useful framework for examining each of those issues.



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1. How can a single component drive a verdict this large?

A running reasonable royalty calculation ultimately comes down to simple multiplication: per-unit royalty times total volume of accused products. A patented component or feature need not dominate the product's price, functionality or physical footprint in order to have a significant impact on that calculation. Even a relatively modest apportioned royalty per unit can produce a massive damages number when multiplied across a sufficiently large sales base.

The Apple verdict illustrates that dynamic, and its risks. The accused technology is implemented in Apple's Taptic Engine, which generates haptic feedback in iPhones and Apple Watches through a vibration motor.

In a midtrial brief responding to the court's request, Taction argued that quantitative evidence, including the per-unit cost of ferrofluid used in its licensed headphone product, together with qualitative evidence of the value of haptics to Apple, would allow the jury to estimate a per-unit reasonable royalty and apply it across the stipulated number of accused devices.[2]

Apple's post-trial motion contends that by the close of evidence, the court had excluded Taction's damages expert and the royalty terms of its prior license, the court had struck Taction's ferrofluid-cost argument from closing, and Taction had asked the jury to award a royalty without proposing any dollar figure.[3]

The jury returned a \$5.72 billion damages award. Apple contends that, viewed as a per-unit royalty, the award amounts to several times the cost of the Taptic Engine itself.[4] Whatever the outcome of post-trial motions, the verdict shows how sheer product volume can magnify whatever per-unit figure a jury settles on, whether or not that figure is anchored in apportionment evidence.

The physical size or prominence of a patented feature is therefore not necessarily indicative of its impact on damages. What matters is the number of accused units and the value properly attributable to the patented feature, and the evidence offered to prove that value.

When the sales volume is enormous, even a relatively small change in the per-unit royalty can

translate into a dramatic change in total damages. That is why rigorous apportionment, supported by admissible evidence, becomes increasingly important as the number of accused sales grows.

2. Do billion-dollar verdicts face steeper odds on appeal?

The history of billion-dollar patent verdicts includes several prominent awards that were later reduced or vacated on appeal. That history, however, can be misleading. Billion dollar verdicts are often perceived as especially vulnerable on appeal, but there is little reason to believe that size alone makes them more likely to be reversed. Rather, they remain subject to the same scrutiny applied to any patent judgment, including challenges to infringement, validity and damages.

For example, in its 2023 decision in VLSI Technology LLC v. Intel Corp., the U.S. Court of Appeals for the Federal Circuit affirmed infringement of one asserted patent, but vacated a \$1.5 billion damages award related to that patent for a new damages trial, and reversed infringement of another patent that had resulted in a \$675 million damages award.[5]

With regard to the former, VLSI's damages model relied in part on a power-savings analysis intended to quantify the incremental technical benefit attributable to the patented technology. The Federal Circuit found that one step in the analysis used inputs tied, at least in part, to noninfringing functionality, undermining the reliability of the model's results. The vulnerability on appeal stemmed not from the size of the award, but from a flaw in the methodology used to support it.

A different problem arose in the Federal Circuit's 2015 decision in Carnegie Mellon University v. Marvell Technology Group Ltd., where a jury had awarded roughly \$1.17 billion in damages.[6] The Federal Circuit upheld the infringement and validity determinations, but vacated the portion of the award attributable to chips that were not made, used or imported in the U.S., remanding for further proceedings concerning whether those chips were sold domestically.

Again, the magnitude of the verdict was not itself the problem. The issue was whether all of the sales included in the award properly belonged in the royalty base.

These examples demonstrate that billion-dollar verdicts do not face steep odds on appeal simply because of their size. Rather, the Federal Circuit evaluates them under the same legal standards governing any patent case. When a liability or damages issue is identified, however, the financial consequences can be far more significant. The size of the verdict may increase the stakes of appellate review, but it does not itself provide a basis for reversal.

3. Why must design-around and invalidity strategy start early?

Whether billions of dollars or much less are at risk, an accused infringer should evaluate possible design-arounds and invalidity early in the litigation. Waiting until after a verdict to design around may be years too late given the engineering, manufacturing, marketing and other business lead times required after counsel determines that an alternative is legally sound.

A design-around is therefore not merely a contingency plan for an adverse judgment. A meaningful noninfringing alternative can limit the number of accused units, reduce or eliminate future exposure, and change settlement leverage. Starting early also gives counsel and engineers time to determine whether a product can be moved outside the claims while preserving the functionality customers demand.

The Apple case illustrates the potential significance of timing. The accused products identified in the jury instructions span numerous iPhone and Apple Watch generations released from 2017 through 2025.[7] Without suggesting that a technically feasible design-around actually existed, an effective noninfringing alternative implemented in an earlier product generation could have reduced the number of accused units and, in turn, the potential damages base.

Invalidity strategy likewise should be developed alongside infringement and design-around efforts. Prior art investigations, technical analysis, expert development and Section 112 defenses often require substantial time and resources. Waiting until late in the case may leave potentially dispositive defenses underdeveloped or unavailable.

The Federal Circuit's 2019 decision in *Idenix Pharmaceuticals LLC v. Gilead Sciences Inc.* shows the stakes. A jury found infringement and awarded \$2.54 billion, but the district court later held the asserted patent invalid for lack of enablement.[8] On appeal, the Federal Circuit affirmed nonenablement and also held the claims invalid for lack of written description.[9] A multibillion-dollar infringement verdict therefore disappeared because the asserted claims could not survive Section 112.

The practical lesson is that design-around and invalidity work should not wait for trial. Developed early, either can materially change the exposure or outcome long before a damages verdict is returned.

4. How should companies reassess exposure after a record award?

A record award does not end the exposure analysis. Until post-trial proceedings and any appeal are concluded, a company must plan for multiple outcomes, including the possibility that the verdict largely stands, is substantially reduced or is overturned altogether. In a case involving a \$5.72 billion verdict, even small changes to liability, damages, future sales or licensing assumptions can shift potential exposure by billions of dollars.

That requires rebuilding the exposure analysis rather than simply substituting the jury's number for the company's prior estimate.

What happens if liability survives, but damages do not? What if some, but not all, of the accused products remain in the case? While past damages cannot be undone, how quickly can future products transition to a noninfringing design? How much exposure remains before the patents expire? Are there related, unasserted patents that also need to be considered, including patents that issued after the litigation began?

The verdict is important new information about risk, but it does not necessarily define the company's ultimate economic exposure. Appeals, redesigns, licensing arrangements and other post-verdict developments can materially alter the outcome.

Reassessment also should extend beyond the immediate judgment to settlement leverage, licensing strategy and the parties' broader commercial relationship.

The 2012 jury verdict of \$1 billion in *Monsanto Co. v. E.I. du Pont de Nemours & Co.* in the U.S. District Court for the Eastern District of Missouri, provides a useful example.[10] After that verdict, the parties entered into a broader technology-license arrangement under which DuPont undertook \$1.752 billion in fixed and minimum royalty obligations, while Monsanto agreed to dismiss the infringement claim and the jury award.[11]

The result shows how a major patent verdict can become a catalyst for reassessing not only appellate risk, but also future licensing, product strategy and the parties' ongoing business relationship.

Conclusion

While the outcome of post-trial motions and any appeal in the Apple case remain to be seen, the verdict already provides a useful illustration of how patent exposure can develop, expand and evolve throughout the life of a dispute.

The broader lesson from enormous patent verdicts is that exposure is shaped long before a verdict is returned and often continues to evolve through post-trial proceedings and appeal. While damages can become very large even when the patented feature represents only a small portion of the accused product, the ultimate outcome still depends on the strength of the underlying infringement, validity and damages theories.

Companies that address design-around, invalidity and post-verdict reassessment as part of an overall risk-management process are therefore better positioned not only to understand that exposure, but also to reduce it before and after a verdict is returned.

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[1] Verdict Form, Taction Technology, Inc. v. Apple Inc., No. 3:21-cv-00812-TWR-JLB, ECF No. 707 (S.D. Cal. Sept. 25, 2026).

[2] Plaintiff Taction Technology, Inc.'s Trial Brief re Dkt. 654, ECF No. 659, at 1–4 (S.D. Cal. Sept. 20, 2026).

[3] Defendant Apple Inc.'s Renewed Motion for Judgment as a Matter of Law and, in the Alternative, Motion for a New Trial, ECF No. 723, at 3–6 (S.D. Cal. Oct. 13, 2026).

[4] *Id.* at 10–11.

[5] *VLSI Tech. LLC v. Intel. Corp.* , 87 F.4th 1332 (Fed. Cir. Dec. 4, 2023).

[6] *Carnegie Mellon Univ. v. Marvell Tech. Group, Ltd.* , 807 F.3d 1283 (Fed. Cir. Aug. 4, 2015).

[7] Final Jury Instructions (redacted), Taction Technology, Inc. v. Apple Inc., No. 3:21-cv-00812-TWR-JLB, ECF No. 712, at 12 (S.D. Cal. Sept. 28, 2026) (identifying accused products released from 2017 through 2025).

[8] Final Judgment, *Idenix Pharmaceuticals LLC v. Gilead Sciences Inc.* , No. 14-846-LPS (D. Del. Mar. 14, 2018), https://www.ded.uscourts.gov/sites/ded/files/opinions/14-846_0.pdf.

[9] *Idenix Pharms. LLC v. Gilead Scis. Inc.*, 941 F.3d 1149 (Fed. Cir. Oct. 30, 2019).

[10] Monsanto Co., Quarterly Report (Form 10-Q) (Feb. 28, 2013), <https://www.sec.gov/Archives/edgar/data/1110783/000111078313000051/mon-20130228x10q.htm>.

[11] E.I. du Pont de Nemours & Co., Current Report (Form 8-K) (Mar. 26, 2013), https://www.sec.gov/Archives/edgar/data/30554/000003055413000014/form8-k_32613.htm.