

Decision No. 14479/2009, published on 15 May 2009
Case No. 47227/17.10.2007

1. Patent infringement and Damages
2. National Procedures (Civil Courts)

An impressive award of damages of 700,000.00 Euro was given to the well-known company PHILIPS (KONINKLIJKE PHILIPS ELECTRONICS N.V.) and a simultaneous finding of infringement of various of its patents in Greece. The patents covered the method for storing data in DVDs in order to ensure they are readable by all DVD players (also known as the EFM+ method, which was agreed upon by all major DVD players' manufacturers, SONY, PIONEER, HITACHI, TOSHIBA, etc. and was memorialized in a document known as "DVD Specifications for Read-Only Discs"). The Respondent to the action filed by PHILIPS was a Greek company known by its distinguishing title "ARCADIA DIGITAL S.A." which impleaded to the Action the German company by the name "SINGULUS TECHNOLOGIES A.G."

700,000 Euro awarded by Greek court on patent infringement matter involving method patents

PHILIPS initiated infringement actions in Greece, against various entities that, as it alleged, infringed on its various European Patents (validated and kept in force in Greece), primarily covering the method used for storing data in DVDs in order to ensure they are readable by all DVD players.

Aside from the very attractive damages award that resulted to an almost $\frac{3}{4}$ of a million Euro granted in favour of PHILIPS (an award that would certainly be considered one of the highest ever awarded by Greek courts) to make matters even more interesting, the legal basis of PHILIPS' claim involved method patents only. As such the Court, by ruling in favour of PHILIPS, accepted the importance, of the "presumption" provision of Greek Patent Law No. 1733/1987 {art. 17 para. 6} that plainly and simply accepts that if a party admits the making of a particular compound / substance / product the making of which is protected by a valid patent, it is presumed that the making of the particular compound / substance / product was done pursuant to said patent.

This decision, aside from potentially serving as highly useful precedent in future method-patent infringement matters, is also extremely interesting in terms of providing somewhat of a "formula" (a long-debated issue in Greek jurisdiction that was as obscure and misleading as can be for a number of years) in terms of calculating damages in similar matters.

The court, in an astonishingly simplifying manner that is certainly refreshing in such cases, exercised its discretion by accepting the following hypothesis:

Each DVD produced is as per the royalties' policy of PHILIPS, charged at 3 cents (on the basis of US\$ currency) per piece. The production quantity of ARCADIA was found by the Court to be approximately 30 million DVDs. There was therefore a simple multiplication and a conversion of the total sum (\$900,000) to Euro.

Claims for moral damages etc. were not granted and aside from enjoining the further production of any DVDs right away, the Court went as far as rendering the decision partially immediately enforceable (up to the 300,000 Euro awarded) and awarding record high Court fees (which in reality probably also covered Attorney's fees though not officially) in the amount of 27,500 Euro.

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