

# M\$ loses appeal to limit damage awards

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Microsoft lost a U.S. appeals-court bid to limit the damages software makers can be ordered to pay in some patent-infringement cases, on its way to a new trial in a dispute over a method of surfing the Internet.

A jury had told Microsoft to pay Chicago-based Eolas Technologies \$521 million for infringement. Yesterday an appeals court let stand its earlier decision that upheld the infringement finding and ruled that Microsoft can be forced to pay damages based on overseas sales of software. Microsoft still gets a new trial to argue its claim that the patent is invalid.

The case involves an award in 2003 to closely held Eolas by a jury that decided Microsoft's Internet Explorer browser infringed an Eolas patent on technology for reading information stored on the Internet. Intel and Time Warner's America Online supported Microsoft's argument that damages in such patent-infringement cases shouldn't include global sales when disks containing software code have been sent overseas.

Microsoft said in court papers that more than 64 percent of the \$521 million award was based on computers "made, sold and used entirely in foreign countries."

The U.S. Court of Appeals for the Federal Circuit ruled March 2 that Microsoft's software on computers sold overseas was covered by a U.S. patent because it had been copied from a master program developed in the U.S.

The ruling also upheld the jury's finding that Microsoft infringed the Eolas patent, though the court granted Microsoft a new trial on the sole issue of whether the Eolas patent was valid. That means Microsoft must win a decision invalidating the patent to avoid paying the \$521 million award.

Today, the appeals court made no comment in refusing to reconsider its decision.

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