

Cite as: 2 NCTU L. REV., Dec. 2017, at 217.

# **The Analysis on U.S. Punitive Damages of Patent Infringement: Focusing on Halo Electronics Inc. v. Pulse Electronics Inc.**

Jou-Hui Lu \*

## Abstract

Punitive damage means that the court can increase the damages after fully compensating the infringement. The concept of punitive damage hasn't been well accepted in civil law system because the traditional jurisprudence of damages in civil law is compensatory damages. And that leads to the repeated elimination and enactment of punitive damage in R.O.C. Patent Law within the last two years, the court also has difficulties in utilizing it. Punitive damage in the U.S. patent law has been developed for nearly two centuries. Unlike R.O.C. Patent Law, the U.S. patent law doesn't expressly require "willfulness" as prerequisite, but it has been accepted through the practice of law. In 2016, the U.S. Supreme Court in *Halo Electronics Inc. v. Pulse Electronics Inc.* has held that the test used since 2007 for awarding punitive damage for willful patent infringement is not consistent with the Patent Act, by clarifying the proper standard for determining willful infringement. This article aims to focus on *Halo*, introducing the development of punitive damages in

---

\* Attorney; LL.M., Institute of Technology Law, National Chiao Tung University.

the U.S. patent law and the impact of *Halo*. Finally, this article suggests that punitive damage should remain enacted in Taiwan and be awarded for a punitive purpose, but the standard for punitive damage still needs future relevant cases in order for a standard to be developed. Taiwan companies should also be aware of the development of *Halo* to avoid joint and several liabilities.

**Keywords:** Punitive Damage, Treble Damages, Willful Infringement, Patent Infringement, U.S. Patent Law