

Court Rules on MercExchange v eBay Patent Case

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The U.S. Court of Appeals for the Federal Circuit made a decision on Wednesday in the appeal of the MercExchange v. eBay and Half.com patent lawsuit. The court affirmed in part, reversed in part, vacated in part and remanded.

Two years ago, a jury declared eBay had willfully infringed MercExchange's consignment fixed-price and software search agent patents. A judge had afterwards denied eBay's motion for a new trial in the MercExchange patent lawsuit and ruled eBay pay MercExchange \$29.5 million in damages for patent infringement. A jury originally awarded damages of \$35 million, using GMS (Gross Merchandise Sales) as the base in computing the royalty.

MercExchange has yet to see a check as the case winds its way through the appeals process.

According to a Blog about patents written by Dennis Crouch, patent attorney at McDonnell Boehnen Hulbert & Berghoff LLP, today's decision sets the stage for a permanent injunction against eBay. But, Crouch told AuctionBytes in an email, "I do not think that there is any real possibility that eBay will be shut down." (http://patentlaw.typepad.com/patent/2005/03/appeals_court_r.html).

eBay is reviewing the decision and will have comments later today. AuctionBytes will continue to update this breaking story.