



Financial Services eBay Amicus

Four major financial services industry associations weigh-in to the U.S. Supreme Court

Why?

- Equate automatic injunction rule with “Operational Risk”
- Show outdated legal rule affects industry interests differently
- Demonstrate that the market values patent rights differently depending upon who holds them

Cell Phone Example with Manufacturers based on Specific Contribution Valuation

Company E Sells Phone retail for **\$10.00**

4 Patented Components

	<u>Cost</u>	<u>Royalty Rate</u>	<u>Total</u>
Supplier A	\$2.00	10%	\$2.20
Supplier B	\$2.00	10%	\$2.20
Supplier C	\$2.00	10%	\$2.20
Supplier D	\$2.00	10%	\$2.20

TOTAL COST (to manufacture) \$8.80

Profit = (\$10.00 - \$8.80) = \$1.20

12% ROI

Cell Phone Example with NPE and Entire Market Value

- E Sells Phone for **\$10.00**
- 4 Patented Components

	<u>Cost</u>	<u>Royalty Rate</u>	<u>Total</u>
Supplier A	\$2.00	10%	\$2.20
Supplier B	\$2.00	10%	\$2.20
Supplier C	\$2.00	10%	\$2.20
NPE D	\$2.00	5% (<i>EMV of \$10.00</i>)	\$2.50
TOTAL COST			\$9.10

Profit \$10.00 - \$9.10 = \$1.90

9% ROI

Consequences

- Incentive is to litigate rather than negotiate

25% re

→ Chills Innovation

- Skewed valuation through litigation incentive due to entire market value gaming does not aid commercialization because NPE's do not have
 - the fixed cost structure of manufactures/suppliers
 - and are otherwise incentivized to maximize short-term gain

