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Supreme Court Issues Ruling in eBay Case

Today, in the closely followed case of [eBay v. MercExchange](#), the U.S. Supreme Court ruled that both the trial court and lower appeals court had incorrectly applied the law as it relates to injunctions. In the majority opinion, written by Justice Clarence Thomas, the unanimous Court said that trial judges must apply the traditional four-factor test to assertions of patent infringement, leaving the entry of any injunction to the judge's discretion. The Court took no view as to whether an injunction should issue on the facts of this case, sending the case back to a judge for review.

Where things get interesting are the two concurring opinions, which express very different views about injunctive relief and the patent system. In one opinion, Chief Justice John G. Roberts Jr., joined by Justices Antonin Scalia and Ruth Bader Ginsburg, suggests district courts should maintain the status quo, recognizing that the long tradition of equity in patent cases strongly favors entry of an injunction. In another opinion, however, Justice Anthony M. Kennedy says that trial judges should rein in injunctive relief when used as leverage by companies that merely license inventions they did not make or where the patent relates to a business method. Justice Kennedy was joined by Justices John Paul Stevens, Stephen G. Breyer, and David H. Souter.

Justices Thomas and Samuel A. Alito Jr. have yet to weigh in on the issue of how much courts' current practices should change. As a result, we could see the justices revisit the issue again in the future.

Contact Information

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