

## Hot Topics in Patent Licensing – the What, Why and the How

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# Worldwide Royalties – Patent Misuse

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License Provision:

Licensee shall pay a 1% royalty on global sales on all patents owned anywhere in the world by Licensor in the field of Bubble Gum.

Problem?

# Worldwide Royalties – Patent Misuse

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## Case Study: Worldwide Royalty Okay

Texas Instruments v. Hyundai,  
49 FS2 893 (EDTX 1999)

- Okay to include global sales in royalty calculation even if no patents in some countries

Rationale: No tied product  
No market power in the relevant  
market shown

# Worldwide Royalties – Patent Misuse

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Case Study: Worldwide Royalty Not Okay  
(Perhaps)

Administrators of Tulane Educ. Fund v. Debio,  
177 FS2 545 (ED La. 2001)

- No royalties allowed in countries where patents already expired (citing Brulote)