

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BRIESE LICHTTENCHNIK VERTRIEBS GmbH, and HANS-WERNER BRIESE,)	No. 09 Civ. 9790
Plaintiffs,)	ORDER AWARDING PRE- AND
)	<u>POST-JUDGMENT INTEREST</u>
-against-)	
)	
BRENT LANGTON, B2PRO, KEY LIGHTING, INC., and SERGIO ORTIZ,)	
Defendants.)	
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The Court held a trial in the above-captioned matter, and the jury found Defendants liable for patent infringement and awarded Plaintiffs \$300,000 in compensatory damages. ECF No. 435 ("Verdict"). Plaintiffs subsequently filed a motion for enhanced damages, which the Court granted on December 18, 2013. The Court ultimately awarded Plaintiffs \$900,000 in damages, but deferred ruling on pre- and post-judgment interest pending supplemental briefing. ECF No. 477. The parties have since filed supplemental briefing on the issue. ECF Nos. 478, 479. Having reviewed those briefs, the Court finds as follows.

Pursuant to 28 U.S.C. § 1961(a), post-judgment interest "shall be calculated from the date of the entry of the judgment,

at a rate equal to the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week preceding the date of the judgment." In this case, that rate is 0.13 percent.

The Court is afforded wide latitude in the selection of a pre-judgment interest rate, and may award interest at or above the prime rate. Uniroyal, Inc. v. Rudkin-Wiley Corp., 939 F.2d 1540, 1545 (Fed. Cir. 1991) (internal citations omitted). Plaintiffs request that the Court apply the New York Civil Practice Law and Rules Rate of 9 percent, while Defendants urge the Court to use the much lower federal post-judgment interest rate. Instead, the Court elects to use the prime rate of 3.25 percent. Using the rate at which corporations borrow funds is more likely to make Plaintiffs whole. Pre-judgment interest began to accrue in August 2008, the date Defendants' infringement commenced. Pre-judgment interest shall be assessed only against the compensatory award of \$300,000.

For these reasons, the Court instructs the Clerk to enter judgment in favor of Plaintiffs and against Defendants in the amount of \$900,000, which encompasses \$300,000 in compensatory damages and \$600,000 in enhanced damages. Defendants shall be jointly and severally liable for the judgment. The judgment shall also include pre-judgment interest at a rate of 3.25 percent, which shall be assessed only against the compensatory award of \$300,000 from August 1, 2008 through the date of the judgment. The Court also awards post-judgment interest at a rate of 0.13 percent. Consistent with the Verdict, the Clerk

shall also enter judgment in favor of Counterclaimants Key Lighting, Inc. and B2Pro and against Counterdefendant Brieese Lichttenchnick GMBH in the amount of \$1 in connection with Counterclaimants' claim for trade libel.

IT IS SO ORDERED.

January 6, 2014



UNITED STATES DISTRICT JUDGE