

Qualcomm's Licensing Practices Found Permissible In Ninth Circuit Ruling

Date: 08/31/20

A three-judge panel of the United States Court of Appeals for the Ninth Circuit vacated and reversed a district court ruling finding that Qualcomm's licensing practices violated antitrust law. *Federal Trade Commission v. Qualcomm Inc.*, 2020 WL 4591476 (9th Cir. Aug. 11, 2020). The unanimous opinion, authored by Judge Consuelo Callahan, reversed an injunction against the technology company and vacated the district court's finding that Qualcomm's standard essential patent ("SEP") licensing practices unlawfully monopolized cellular chip markets. The panel characterized Qualcomm's conduct as "hypercompetitive" – not anticompetitive – and found it played a "powerful and disruptive" role in the relevant markets.

Although the Federal Trade Commission (the "FTC") has not indicated whether it intends to seek *en banc* review or appeal the decision, the Ninth Circuit's ruling is a significant victory for Qualcomm and other patent licensors. The decision is also significant for the United States Department of Justice, which remarkably took a position opposite the FTC by filing a statement of interest in support of Qualcomm.