

No. 19-

IN THE
Supreme Court of the United States

TCL COMMUNICATION TECHNOLOGY HOLDINGS LIMITED;
TCT MOBILE LIMITED; TCT MOBILE (US) INC.,
Petitioners,
v.

ERICSSON, INC.; TELEFONAKTIEBOLAGET LM
ERICSSON,
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Technical standards created by standard-setting organizations—such as the 2G, 3G, and 4G wireless communication standards—are ubiquitous in the modern economy and enable the interoperability of products made by different manufacturers. To facilitate the implementation of standards and prevent abusive practices, most standard-setting organizations require companies that believe their patents are essential to practicing a standard to make binding commitments to license their patents on fair, reasonable, and non-discriminatory (FRAND) terms. When the holder of a standard-essential patent refuses to honor that commitment, prospective licensees may seek a ruling that the FRAND commitment has been breached and an injunction ordering specific performance (*i.e.*, forming a new license with FRAND terms and conditions).

In the decision on review, the Federal Circuit held that the patent owner accused of breaching its FRAND commitment had a Seventh Amendment right to have a jury set the royalty rate in the injunction requiring it to license its worldwide portfolio of patents on FRAND terms, simply because the injunction included a backward-looking royalty payment proposed by the patent owner as part of the consideration that the licensee was required to pay to receive specific performance.

The question presented is:

Whether a patent owner required to license its standard-essential patents on fair, reasonable, and non-discriminatory terms has a Seventh Amendment right to a jury trial in a proceeding seeking the equitable relief of specific performance.

(i)

PARTIES TO THE PROCEEDINGS

Petitioners TCL Communication Technology Holdings Limited, TCT Mobile Limited, and TCT Mobile (US), Inc. (collectively “TCL”) were the plaintiffs-appellees in the Federal Circuit.

Respondents Ericsson, Inc. and Telefonaktiebolaget LM Ericsson (collectively “Ericsson”) were the defendants-appellants in the Federal Circuit.

CORPORATE DISCLOSURE STATEMENT

Petitioners TCT Mobile Limited and TCT Mobile (US), Inc. are wholly-owned by Petitioner TCL Communication Technology Holdings, Limited. No publicly held corporation owns 10% or more of any Petitioner’s member interest.

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