

No. 19-1269

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IN THE  
**Supreme Court of the United States**

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

ERICSSON, INC.; TELEFONAKTIEBOLAGET LM  
ERICSSON,  
*Respondents.*

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

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**REPLY BRIEF FOR PETITIONERS**

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## INTRODUCTION

Ericsson’s brief is an exercise in distraction. Ericsson understandably would prefer not to discuss the merits of the Federal Circuit’s deeply flawed Seventh Amendment decision. That ruling broke with long-standing precedent to create a jury-trial right in a case seeking the equitable relief of specific performance. The Federal Circuit applied this erroneous rule, moreover, to a critical part of the modern economy—the obligation to license standard-essential patents (SEPs) on fair, reasonable, and nondiscriminatory (FRAND) terms. As underscored by the outpouring of amicus support from leading companies, organizations, and scholars, it is extremely important that this Court review and reverse the Federal Circuit’s erroneous constitutional ruling and restore the traditional division of responsibility between judge and jury. None of Ericsson’s arguments offers a sound reason to decline review.

## ARGUMENT

### I. THIS CASE IS AN IDEAL VEHICLE TO ADDRESS THE QUESTION PRESENTED

#### A. TCL Did Not Forfeit Its Argument

In its first attempt to manufacture a vehicle problem, Ericsson argues (at 15) that TCL never referred to the release payment as “equitable consideration” in the Federal Circuit. But the notion that TCL forfeited review of the question presented is absurd.

TCL explained even before trial that “a release payment is one of the contract terms Ericsson wants the Court to impose as part of its [proposed licenses].

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