

No. 21-

IN THE
Supreme Court of the United States

APPLE INC.,

Petitioner,

v.

QUALCOMM INCORPORATED,

Respondent.

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

In *MedImmune, Inc. v. Genentech, Inc.*, 549 U.S. 118 (2007), this Court held that, under Article III, a patent licensee may challenge the validity of a patent covered by a license agreement even where the licensee pays royalties that eliminate any imminent threat of suit. The Court recognized that royalty payments are coerced when, considering all the circumstances, the licensee makes those payments to avoid the threat of an infringement suit.

In this case, Apple makes payments to respondent Qualcomm Incorporated under a license agreement that covers a portfolio of patents. The U.S. Court of Appeals for the Federal Circuit nevertheless held that Apple lacks Article III standing to challenge the validity of two of those patents in appeals from inter partes reviews—a mechanism that Congress created precisely to facilitate challenges to questionable patents, including through appeal—because the license agreement covers multiple patents, such that invalidation of the two patents-in-suit would not by itself alter Apple’s payment obligations under the license agreement.

The question presented is:

Whether a licensee has Article III standing to challenge the validity of a patent covered by a license agreement that covers multiple patents.

(i)

PARTIES TO THE PROCEEDING

Petitioner Apple Inc. was the petitioner in proceedings before the Patent Trial and Appeal Board and the appellant in the court of appeals in Nos. 20-1561 and 20-1642.

Respondent Qualcomm Incorporated was the patent owner in proceedings before the Patent Trial and Appeal Board and the appellee in the court of appeals in Nos. 20-1561 and 20-1642.

CORPORATE DISCLOSURE STATEMENT

Apple Inc. has no parent company, and no publicly held corporation owns 10% or more of its stock.

(iii)

RELATED PROCEEDINGS

United States Court of Appeals for the Federal Circuit:

A. *Apple Inc. v. Qualcomm Incorporated*, No. 20-1561 (Fed. Cir.) (consolidated with No. 20-1642 for purposes of oral argument; judgment issued April 7, 2021; rehearing denied July 20, 2021)

B. *Apple Inc. v. Qualcomm Incorporated*, No. 20-1642 (Fed. Cir.) (consolidated with No. 20-1561 for purposes of oral argument; judgment issued April 7, 2021; rehearing denied July 20, 2021)

Patent Trial and Appeal Board:

A. *Apple Inc. v. Qualcomm Incorporated*, Case IPR2018-01279 (P.T.A.B.) (final written decision entered Jan. 2, 2020)

B. *Apple Inc. v. Qualcomm Incorporated*, Case IPR2018-01252 (P.T.A.B.) (final written decision entered Jan. 22, 2020)



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