



# AMERICANS FOR LIMITED GOVERNMENT

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November 8, 2018

## VIA ELECTRONIC FILING

Secretary Lisa R. Barton  
U.S. International Trade Commission  
500 E Street, SW  
Room 112A  
Washington, DC 20434

RE: Inv. No. 337-TA-1065, Qualcomm v. Apple complaint

Dear Secretary Barton,

The sanctity of intellectual property is a bulwark of the American free enterprise system, and a recent recommendation by retired Administrative Law Judge Thomas Pender unsuccessfully tries to split the baby in the case between Qualcomm and Apple being considered by the International Trade Commission.

Infringement without remedy is a license for theft running counter to the very principle that underlies the ITC's important role in ensuring that U.S. company patents are protected in international trade.

Americans for Limited Government's position is crystal clear. The public interest to protect the patent rights of those who create wealth in our nation is the highest public interest in this case. Judge Pender found that an infringement occurred as a fact. He then chose to excuse that infringement based upon a rationalization about alleged harm that it would do to Intel, a \$223 billion market cap multi-national company which has chosen to not compete in a meaningful way in the development of next generation 5G technology.

Qualcomm, a company with about 1/3 of the market capitalization of Intel, is instead penalized for investing large percentages of the resources derived from the licensing fees which Apple seeks to deprive them, into competing in 5G development.

A Stratfor article published by Forbes on April 3, 2018<sup>1</sup> lays out the 5G battle between the U.S. and China. Qualcomm's efforts to maintain the U.S. advantage in 5G technology is detailed along with the challenges posed by multiple Chinese government entities which are closing rapidly due to their massive financial resources. Qualcomm's entire business model and their ability to devote the necessary dollars for research and development are dependent upon the

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<sup>1</sup> [www.forbes.com/sites/stratfor/2018/04/03/the-u-s-china-and-others-race-to-develop-5g-mobile-networks/#77c84b605875](http://www.forbes.com/sites/stratfor/2018/04/03/the-u-s-china-and-others-race-to-develop-5g-mobile-networks/#77c84b605875)

licensing revenues they have contractually negotiated with companies like Apple. When Apple or other licensees seek to negate Qualcomm's patent rights, they pose a grave threat to the public interest of both the people of the United States and our national security.

Americans for Limited Government does not need to explain the importance of Qualcomm winning the race to 5G for the future, and if they were asking for a subsidy or hand up, we would likely oppose it.

But this is not what Qualcomm is asking. All they ask is that their patent rights be upheld and that they be compensated accordingly. Judge Pender's decision fails this basic test, and in his attempt to appease both sides, his decision causes grievous harm to the public interest of the people of the United States.

Americans for Limited Government strongly urges the ITC to impose a meaningful remedy on Apple for their dangerous patent infringement against Qualcomm. To do anything else would do damage to both intellectual property rights as a whole and to the national interests of the United States to successfully compete on the world stage in the development of next generation technology.

Sincerely,

A handwritten signature in black ink that reads "Richard Manning". The signature is written in a cursive style with a large, sweeping initial "R" and a distinct flourish at the end.

Richard Manning  
President  
Americans for Limited Government