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# Developments on SEP/FRAND Issues in the U.S. and abroad

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United States District Court
Northern District of California

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

QUALCOMM INCORPORATED,

Defendant.

Case No. 17-CV-00220-LHK

**ORDER DENYING MOTION TO DISMISS** (REDACTED)

Re: Dkt. No. 69

Plaintiff Federal Trade Commission ("FTC") sues Defendant Qualcomm Incorporated ("Qualcomm") for violation of § 5 of the Federal Trade Commission Act ("FTCA"), 15 U.S.C. § 45. *See* ECF No. 1. Before the Court is Qualcomm's motion to dismiss. ECF No. 69. Having considered the submissions of the parties, the relevant law, and the record in this case, the Court hereby DENIES Qualcomm's motion to dismiss.

## I. BACKGROUND

### A. Factual Background

This case requires understanding the complicated interaction between cellular communications standards, standard essential patents ("SEPs"), and the market for baseband

processors, or "modem chips."[1] The Court begins by discussing cellular communications standards and modem chips generally. Then, the Court discusses Qualcomm's cellular communications SEPs and Qualcomm's participation in the markets for modem chips. Finally, the Court discusses FTC's allegations that Qualcomm has used its SEPs and its modem chips monopoly to harm competition in certain modem chips markets.

**1. Cellular Technology and the Baseband Processor Industry Generally**

**i. Cellphone Networks**

Cellular communications depend on widely distributed networks that implement cellular communications standards. ECF No. 1 ("Compl."), ¶ 18. Network operators, including Verizon, AT&T, T-Mobile, and Sprint, "build networks that comply with these standardized protocols." *Id*.

Cellular communications standards have evolved over four "generations." *Id*. ¶ 19. First-generation cellular communications standards were developed in the 1980s. These standards support analog transmissions of voice calls. *Id*. ¶ 19a.

Second-generation ("2G") cellular communications were developed in the early 1990s. *Id*. ¶ 19b. 2G cellular communications standards support digital transmissions of voice calls. *Id*. The leading 2G standards are the Global System for Mobile communications standard ("GSM") and second generation Code Division Multiple Access standard ("2G-CDMA"). *Id*. In the United States today, AT&T and T-Mobile operate "legacy" GSM networks. By contrast, Verizon and Sprint operate "legacy" 2G-CDMA networks. *Id*.

In the late 1990s and early 2000s, third-generation ("3G") cellular communications standards were developed. *Id*. ¶ 19c. The leading 3G standards are the Universal Mobile Telecommunications system ("UMTS") and third-generation CDMA ("3G-CDMA") standards. *Id*. Network operators that deployed 2G GSM networks, such as AT&T and T-Mobile,

[1] The Complaint and the parties' motions refer to baseband processors as "processors," "chips," "modem chips," and "chipsets." Qualcomm states in its motion that "these terms are not in fact interchangeable," but Qualcomm uses the term "modem chips" in its motion. *See* Mot. at 5 n.6. For simplicity and consistency, the Court will refer to baseband processors throughout this Order as "modem chips" or "chips."

# Title search: Developments on SEP/FRAND Issues in the U.S. and Abroad

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