

Sparing a Trillion-Dollar Industry from a Single Supplier's Dispute

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| Client: | AT&T Mobility |
| Industry: | Telecommunications |
| Area of Law: | Intellectual Property |
| Venue: | U.S. Court of Appeals for the Federal Circuit |
| Result: | Set an important patent law precedent, limiting the reach of the ITC's power to exclude importation of products made by parties other than the alleged infringer |



“The appeals court said the U.S. International Trade Commission had overstepped its bounds when it issued the ban against handset makers ...”

—PC World, October 14, 2008

If the sheer number and firepower of counsel is any indicator, *In re Kyocera Wireless v. International Trade Commission* was the hottest patent case of 2008. The Federal Circuit courtroom was packed by members of 18 different law firms working on the appeal. But the oral arguments were presented by only a handful of top appellate practitioners, with Pillsbury counsel arguing on behalf of wireless service giants AT&T Mobility, T-Mobile and RIM.

At issue was a decision by the U.S. International Trade Commission that, in the words of Bloomberg News, could “cripple the entire mobile-phone industry.” The ITC, acting in response to alleged patent infringement by the microchip manufacturer Qualcomm, sought not only to ban the import of the chips themselves, but also all “downstream products” that incorporated the offending microchips.

The proposed ban would have covered nearly all new mobile phones with “third generation” (3G) technology, hurting device manufacturers and wireless service providers alike in the United States. Indeed, given the importance of the issues and the havoc a ban would have caused, the exclusion order was stayed while the ITC’s decision was appealed to the Federal Circuit.

Pillsbury’s oral argument on behalf of AT&T Mobility, T-Mobile and RIM noted the fundamental unfairness of the ITC’s decision to these companies, which had not even been allowed to participate in any proceedings or present evidence to the ITC about how the ban would affect them. Pillsbury also argued that the ITC had exceeded its authority. The Federal Circuit agreed, effectively setting a new legal standard for downstream companies caught in patent disputes.