

Australian court clears sale of Samsung Galaxy tab

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FILE - In this Oct. 13, 2011 file photo, people walk by a Samsung store in Sydney. Samsung Electronics Co. is closer to selling its new Galaxy tablet computer in Australia after a court on Wednesday, Nov. 30, overturned a ruling that favored Apple's allegations Samsung had copied its iPad and iPhone. (AP Photo/Rick Rycroft, File)

(AP) -- Samsung Electronics Co. is closer to selling its new Galaxy tablet computer in Australia after a court on Wednesday overturned a ruling that sided with Apple's allegations Samsung had copied its iPad and iPhone.

The Federal Court's decision is a victory for Samsung in its bitter, international patent war with Apple Inc., and might be just in time for the Suwon, South Korea-based company to capitalize on the [Christmas shopping](#) season in Australia.

The ruling Wednesday said evidence fails to show that the Galaxy tablet infringes Apple's touch screen patent and that Apple Inc. would be unlikely to win if the case went to a trial. It blasted the earlier decision in Apple's favor as "clearly wrong."

In October, Federal Court Justice Annabelle Bennett granted Apple's request for a temporary injunction against sales of Samsung's Galaxy Tab 10.1 in Australia, preventing Samsung from selling the device in the country in its current form.

Samsung quickly appealed that decision, and on Wednesday, the court agreed to lift the injunction and allow Galaxy sales to go ahead.

Still, Samsung will have to wait a few more days before it can begin selling the Galaxy, after Apple indicated it would appeal to the nation's High Court. Federal Court Justice Lindsay Foster agreed to keep the injunction in place until Friday while that issue is pending.

The battle began in April, when Cupertino, California-based Apple sued Samsung in the United States, alleging the product design, user interface and packaging of Samsung's Galaxy devices "slavishly copy" the [iPhone](#) and [iPad](#). Samsung responded by filing its own lawsuits that accused Apple of [patent infringement](#) of its [wireless telecommunications](#) technology.



File photo of a Samsung Electronics' Galaxy Tab 10.1 advert in in Seoul. The Federal Court of Australia in Sydney lifted a ban on the sale of the Galaxy 10.1 Tab ahead of a final hearing, with Apple claiming the device copies its iPad computer.

The fight has spread to 10 countries, with courts in several nations - including Germany and the Netherlands - ruling in favor of Apple. It has highlighted the perception that Samsung - the global No. 1 in TVs and No. 2 in smartphones by sales - is more of an imitator of clever technologies than an innovator in its own right. Apple, by contrast, is generally viewed by consumers as highly original and inventive.

In her October ruling, Justice Bennett said she was siding with Apple in part because she felt the company had a sufficient likelihood of winning at trial against Samsung.

But on Wednesday, a full bench of the Federal Court argued that Bennett did not include in her written decision any assessment of the strengths of Apple's case, as she was required to do before granting the injunction.

"In our view, her decision was clearly wrong and should be set aside," the panel wrote.

The justices also said they believed Apple was unlikely to succeed at trial, writing that current evidence fails to show that selling the Galaxy in Australia infringes on Apple's touch screen patent.

In a statement, Samsung said it was pleased with the court's decision and said it would soon announce when the Galaxy would be available in

Australia.

"We believe the ruling clearly affirms that Apple's legal claims lack merit," the company said.

Apple representatives did not immediately respond to requests for comment.

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