

Patent battle between Apple, Samsung moves to federal appeals court

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Apple and Samsung will take their global patent feud to a federal appeals court Friday, marking another legal showdown with sweeping implications for tech companies increasingly looking to ban the sales of rival products they consider copycats.

In the latest round between Apple and Samsung, the U.S. Federal Circuit Court of Appeals in Washington, D.C., will review a San Jose, Calif., federal judge's ruling last year rejecting Apple's bid for a permanent injunction against a line of older Samsung smartphones and tablets. A [federal jury](#) found that more than two dozen of those Samsung products violated Apple's patent rights, but U.S. District Judge Lucy Koh refused to permanently block their sale in the United States.

For the two rivals, the [appeals court](#) will be weighing the ultimate weapon in these patent conflicts - whether, and under what circumstances, a company should be barred from selling products found to have infringed a competitor's patent rights, the most damaging blow in the hypercompetitive technology markets. The answer could reshape [patent law](#) for years to come, particularly for products such as smartphones loaded with different patented technologies.

"I think it is extremely important," said Mark Lemley, a Stanford University law professor and leading tech law scholar. "It could fundamentally change the way the [patent system](#) works in the (technology) industries."

The issue is at the heart of Apple's legal war against the South Korean tech giant, transcending attempts to recover damages for claims that Samsung has copied the iPhone and iPad with its successful line of smartphones and tablets, particularly Samsung's Galaxy devices that run on Google's Android operating system.

The Federal Circuit is expected to clarify the law at a time when seeking injunctions in patent cases has become a fertile debate in the lower courts, perhaps giving the U.S. Supreme Court a chance to revisit the question for the first time in nearly two decades.

And how the courts resolve the issue takes on new importance given the U.S. International Trade Commission and the Obama administration's approach to sales bans in patent claims. For instance, it last weekend overruled a ban on certain older Apple products that were found to have trampled on core Samsung patents.

In her decision, Koh concluded that Apple failed to prove that consumers relied on the Samsung product features that violated Apple's patent rights. Legal experts say that standard could make it exceedingly difficult for companies to win sales bans in patent cases involving multifaceted tech products, even when, as in the Apple case, they have a jury verdict in hand.

Nokia has backed Apple in the Federal Circuit, while Google, HTC and SAP are among the tech companies to side with Samsung.

"The appeal has real implications for the broader question of whether it is appropriate to stop the sale of a complex product that infringes just a handful of the many thousands of patented inventions that contribute to its value," said Brian Love, a Santa Clara University law professor.

Lawyers for Apple and Samsung declined to comment.

But in court papers, Apple described Koh's findings as too rigid, warning that it would create a "bright-line rule that precludes injunctive relief even in traditional cases, such as this."

Samsung, meanwhile, urged the appeals court to uphold Koh's ruling, saying Apple has not proved that it has been harmed by the sales of the Samsung devices and that it already has been awarded damages as a result of the jury's verdict.

A jury originally awarded Apple \$1 billion in damages, but Koh reduced it by about \$450 million and a retrial is set for November on damages. Meanwhile, a trial on Apple's [patent](#) lawsuit against Samsung's newer generation of smartphones and tablets is scheduled for the spring.

While the two companies have had settlement talks during the past year, attorneys for both sides recently notified Koh in court papers they had made no progress to resolve the cases. As a result, the Federal Circuit's view of the sales ban issue could affect whether the two sides lay down their legal swords, or keep pressing forward.

If Koh is upheld, "it will be very hard for any company to get an injunction in a complex, multi-component industry like smartphones," Lemley said. "It may also finally prod the parties to settle if it is clear that there is only money and not market control at stake in these lawsuits."

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