

Agency set to rule on penalty for Qualcomm

by Paul Krawzak

WASHINGTON - A federal agency is expected to deliver a ruling Friday that some say could strike a serious economic blow to the wireless industry by banning the import of certain advanced cell phones into the United States.

The U.S. International Trade Commission has a deadline of Friday to announce its remedy or penalty in a patent infringement dispute between Southern California chip makers Qualcomm Inc. of San Diego and Broadcom Corp. of Irvine, Calif.

The commission, an independent federal agency, ruled last year that Qualcomm infringed on a patent held by rival Broadcom for a chip that conserves battery power in high bandwidth cell phones used to surf the Internet, play music and download video.

Broadcom has asked the commission to ban the import of all cell phones containing the infringing chips, an action it says is necessary to protect its intellectual property rights.

Qualcomm and more than half a dozen companies in the wireless industry, including Verizon and Sprint Nextel, are vehemently opposed to a full ban.

During a two-day hearing before the commission in March, opponents said stopping cell phone imports would cost the industry billions of dollars, raise cell phone prices and undermine public safety.

Broadcom officials insist the dire predictions of harm to the industry are overblown.

"We certainly don't think it's going to have a great impact," said David Rosmann, a Broadcom attorney.

Many observers, including former commission attorney Lyle Vander Schaaf, doubt the commission will opt for a ban on cell phone imports because of the impact it would have on the industry.

It would be "extraordinary" if the commission did so, he said. Such a move would "impact these cell phone manufacturers. It (would) affect the market value of their stock and everything else because it's going to have

an impact on their sales."

Not everyone agrees.

Smith R. Brittingham IV, another former attorney for the commission, said he expects the commission to ban cell phone imports, based on its actions in previous similar cases.

Other possibilities include restricting the import of some cell phones but not others, or simply banning the import of stand-alone chips. Both sides agree that banning stand-alone chips would have little effect since most chips come into the country as part of assembled phones.

Whichever remedy the commission chooses, it could be overturned by President Bush, who has 60 days to review the decision. Bush also could ask the commission to modify its ruling.

Banning the import of phones would hurt Qualcomm sales.

Qualcomm attorney Louis Lupin said the company does not have an estimate of the sales that would be lost but he said "it would certainly be significant."

Even if the commission went along with Broadcom's request for a ban on imported cell phones, Americans would still be able to buy wireless devices with similar capabilities including devices with typewriter-like keyboards manufactured by BlackBerry and so-called "smartphones."

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