

Qualcomm Ruled a Monopoly, Found in Violation of US Antitrust Law And Silicon Valley VC's Made It Break Laws

- By [Joel Hruska](#)



Apple and Qualcomm may have dropped their worldwide lawsuit war against each other, but that wasn't the only battle Qualcomm faced. The FTC also brought a case against Qualcomm, alleging antitrust abuses and illegal behavior. In a ruling May 21, US District Court Judge Lucy Koh found that Qualcomm had violated the Federal Trade Commission Act. Qualcomm has pledged to immediately appeal the ruling, which has significant implications for its business structure and earnings.

"We strongly disagree with the judge's conclusions, her interpretation of the facts and her application of the law," Don Rosenberg, executive vice president and general counsel of Qualcomm, said in a statement Wednesday.



Qualcomm used slides like this in its case against Apple to illustrate how it wasn't compensated for its work — but the company has been found guilty of abusing its own monopolistic position in the market.

Judge Koh largely sided with the FTC's findings and arguments and has hit Qualcomm with multiple requirements. One of the major findings is that Qualcomm is not allowed to use its "no license, no chips" strategy that required customers to license Qualcomm patents in order to purchase its microprocessors. The company is also prohibited from striking exclusivity deals with companies like Apple, and from refusing to license its patents according to FRAND (Fair, Reasonable, and Non-Discriminatory) terms.

"Qualcomm's licensing practices have strangled competition in the CDMA and premium LTE modem chip markets for years, and harmed rivals, OEMs, and end consumers in the process," [Koh writes](#).

Qualcomm is specifically required to meet the following obligations:

Qualcomm must not condition the supply of modem chips on a customer's patent license status and Qualcomm must negotiate or renegotiate license terms with customers in good faith under conditions free from the threat of lack of access to or discriminatory provision of modem chip supply or associated technical support or access to software.

Qualcomm must make exhaustive SEP licenses available to modem-chip suppliers on fair, reasonable, and non-discriminatory ("FRAND") terms and to submit, as necessary, to arbitral or judicial dispute resolution to determine such terms.

Qualcomm may not enter express or de facto exclusive dealing agreements for the supply of modem chips.

Qualcomm may not interfere with the ability of any customer to communicate with a government agency about a potential law enforcement or regulatory matter.

In order to ensure Qualcomm's compliance with the above remedies, the Court orders Qualcomm to submit to compliance and monitoring procedures for a period of seven (7) years. Specifically, Qualcomm shall report to the FTC on an annual basis Qualcomm's compliance with the above remedies ordered by the Court.

Qualcomm was found to have made exclusivity deals with Apple, Blackberry, LGE, Samsung, and Vivo. It interfered with regulator investigations when it paid Samsung \$100M to shut that company up over supposed antitrust violations. Koh noted that Qualcomm has a history of misbehavior, noting: "Qualcomm's failure to alter its unlawful licensing practices despite years of foreign government

investigations, findings, and fines suggests an obstinance that a monitoring provision may address.”

Finally, Qualcomm is prohibited from charging its customers *higher* royalty rates if they opt to use a competitor’s chips. Judge Koh ruled there was evidence Qualcomm engaged in this practice. This is similar to the kinds of behavior Intel allegedly engaged in against AMD during the antitrust battle between those two companies. Microsoft also engaged in similar tactics years ago, charging OEMs for a Windows license regardless of whether they shipped specific PCs with Windows or a different OS. Courts have often taken a dim view of these requirements, though the details vary depending on the specifics of the market and the case (AMD versus Intel never went to trial in the US, and the FTC settled its own investigation several years later).

Qualcomm has already announced it will appeal the decision to the 9th Circuit and request a stay of the ruling pending appeal. The 5G modem market is already shrinking rapidly; Intel pulled out altogether following the collapse of its plans to provide 5G service to Apple. Huawei silicon is unlikely to be welcome in the United States, at least. That leaves just Samsung and MediaTek as potential top-tier competitors for [5G modem](#) designs, which means Qualcomm could end up with a majority of 5G modem wins, just as they did in the LTE era, regardless of whether the FTC decision is ultimately upheld.

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