

## Did iPhone Upend the Rule of Law?

By Nicholas Taylor, J.D. Candidate 2020 | October 11, 2018

A U.S. International Trade Commission judge [recently determined](#) that Apple infringed Qualcomm’s microchip patent. Nevertheless, the judge declined to grant Qualcomm’s request to ban the importation of iPhones into the United States. The two tech giants have [multiple lawsuits](#) spanning multiple continents, and the aggregate claims amount to billions of dollars.

If Apple did infringe Qualcomm’s patent, does it make sense to allow the infringement to continue? On the surface, it appears that public demand for iPhone has upended the rule of law — the principle that laws should be applied and enforced equally. Whether one agrees with the concept of intellectual property, it is currently the law of the land. The judge’s ruling, however, gives the impression that rules do not apply to Apple products. What happened here?

The details of the ruling have not yet been made available. However, an administrative law judge at the International Trade Commission reasoned that “public interest factors” weighed against banning the importation of iPhones. It is unclear what the judge meant by “public interest factors.” But, one obvious public interest factor is consumer choice. Intellectual property law is about balancing the rights of intellectual property holders with the public interest in better goods and services. It appears the latter was more important in the judge’s mind.

Also, the use of the phrase “public interest” was appropriate because, even had the ban been granted, damage to Apple would have been minimal. Margins on iPhones, even for older models, are [insanely high](#). A hiccup in the rollout of a new model would not hamper the business operations of Apple. Further, users of iPhone, as well as other Apple products, are notorious for their brand loyalty. A delay in the release of the newest iPhone would not damage the company’s goodwill. Therefore, the ruling is, or at least has the appearance of being, about Qualcomm’s interest versus the public interest.

The judge likely saw no reason to narrow consumer choice. Equitable relief in the form of a ban on the importation of a complete iPhone product, of which Qualcomm’s microchip technology is only a part, appears excessive in light of the availability of a legal remedy. Apple is certainly able to pay any monetary judgments to Qualcomm. The court must simply determine the right amount. On balance, the judge’s decision was judicially sound.

