

中 华 人 民 共 和 国
The People's Republic of China
福 建 省 福 州 市 中 级 人 民 法 院
Fuzhou Intermediate People's Court, Fujian Province

民 事 裁 定 书
Civil Order

(2018)闽 01 民初 1209 号之一

Min 01 Min Chu No.1209 Zhi Yi (2018)

申请人：高通股份有限公司（Qualcomm Incorporated），住所地
美国加利福尼亚州圣地亚哥市摩尔豪斯大道 5775 号（5775
Morehouse Drive, San Diego, California, USA）。

Applicant: Qualcomm Incorporated. Address: 5775 Morehouse
Drive, San Diego, California, USA.

法定代表人：罗伯特·贾尔斯（Robert Giles）。

Legal Representative: Robert Giles.

委托诉讼代理人：蒋洪义，北京市联德律师事务所律师。

Attorney: Jiang Hongyi, LexField Law Offices.

委托诉讼代理人：林天凯，福州展晖专利事务所专利代理人。

Attorney: Lin Tiankai, Patent Attorney of Fuzhou Zhanhui Patent
Office.

被申请人：苹果电脑贸易（上海）有限公司，住所地中国（上
海）自由贸易试验区马吉路 88 号 C 区 6 号楼全幢。

Respondent: Apple Computer Trading (Shanghai) Co., Ltd.
Address: Building 6, Zone C, 88 Maji Road, China (Shanghai) Pilot Free Trade Zone.

法定代表人：基恩·丹尼尔·勒沃夫 (Gene Daniel Levoff)，董事长。

Legal Representative: Gene Daniel Levoff, Director.

委托诉讼代理人：杨璞，上海市方达律师事务所律师。

Attorney: Yang Pu, Shanghai Fangda Partners.

委托诉讼代理人：郭繁，上海市方达（北京）律师事务所律师。

Attorney: Guo Fan, Shanghai Fangda Partners (Beijing).

被申请人：苹果电子产品商贸（北京）有限公司，住所地北京市东城区东长安街 1 号东方广场东方经贸城东一办公楼二十层 2,4,5,6 室。

Respondent: Apple Electronic Products Commerce (Beijing) Co., Ltd. Address: Room 2, 4, 5, 6, Floor 20, Tower E1, Oriental Plaza, 1 East Chang'an Ave, Dongcheng District, Beijing.

法定代表人：麦克·约瑟夫·博德 (Michael Joseph Boyd Jr.)，董事长。

Legal Representative: Michael Joseph Boyd Jr., Director.

委托诉讼代理人：杨璞，上海市方达律师事务所律师。

Attorney: Yang Pu, Shanghai Fangda Partners.

委托诉讼代理人：郭繁，上海市方达（北京）律师事务所律师。

Attorney: Guo Fan, Shanghai Fangda Partners (Beijing).

被申请人：苹果贸易（上海）有限公司，住所地中国（上海）自由贸易试验区世纪大道 8 号上海国金中心汇丰银行大楼（即 A

座) 6 层部分 610-13 室。

Respondent: Apple Trading (Shanghai) Co., Ltd. Address: Room 610-13, Floor 6, HSBC Bank Building (Tower A), Shanghai International Financial Center, 8 Century Avenue, Shanghai, China (Shanghai) Pilot Free Trade Zone.

法定代表人: 麦克·约瑟夫·博德 (Michael Joseph Boyd Jr.), 董事长。

Legal Representative: Michael Joseph Boyd Jr., Director.

委托诉讼代理人: 杨璞, 上海市方达律师事务所律师。

Attorney: Yang Pu, Shanghai Fangda Partners.

委托诉讼代理人: 郭繁, 上海市方达(北京)律师事务所律师。

Attorney: Guo Fan, Shanghai Fangda Partners (Beijing).

被申请人: 苹果电子产品商贸(北京)有限公司福州泰禾分公司, 住所地福建省福州市晋安区东二环路泰禾广场购物中心 L105-1、L105-2、L106-1、L106-2 号店铺。

Respondent: Apple Electronic Products Commerce (Beijing) Co., Ltd. Fuzhou Thaihot Branch. Address: Shops L105-1, L105-2, L106-1, L106-2, Thaihot Plaza Shopping Center, East Second Ring Road, Jin'an District, Fuzhou, Fujian.

负责人: 陶德·赖瑞姆·麦基恩 (Todd Larime Mckean)。

Person in Charge: Todd Larime Mckean.

委托诉讼代理人: 杨璞, 上海市方达律师事务所律师。

Attorney: Yang Pu, Shanghai Fangda Partners.

委托诉讼代理人: 苏小榕, 福建拓维律师事务所律师。

Attorney: Su Xiaorong, Fujian Topwe Law Firm.

原告高通股份有限公司（以下简称高通公司）与被告苹果电脑贸易（上海）有限公司（以下简称上海苹果电脑公司）、苹果电子产品商贸（北京）有限公司（以下简称北京苹果公司）、苹果贸易（上海）有限公司（以下简称上海苹果公司）、苹果电子产品商贸（北京）有限公司福州泰禾分公司（以下简称北京苹果福州公司）侵害发明专利权纠纷一案，本院于2017年11月15日立案，申请人高通公司于2018年7月10日向本院申请责令诸被告先行停止侵犯专利权行为，请求：（一）对被申请人上海苹果电脑公司、北京苹果公司、上海苹果公司、北京苹果福州公司采取如下保全措施：责令上海苹果电脑公司立即停止进口、销售侵害涉案专利（专利号：ZL200480042119.X）的侵权产品 iPhone6s，iPhone6s Plus，iPhone 7，iPhone7Plus，iPhone8，iPhone8Plus 和 iPhoneX；责令北京苹果公司立即停止销售、许诺销售侵害上述涉案专利的侵权产品，并立即删除其主办的苹果公司网站（网址：www.apple.com.cn）中涉及上述侵权产品的宣传广告、许诺销售、购买链接等信息；责令上海苹果公司立即停止销售、许诺销售上述侵害涉案专利的侵权产品；北京苹果福州公司立即停止销售、许诺销售上述侵害涉案专利的侵权产品。（二）上述行为保全的效力，维持到本案判决生效时止。中国银行股份有限公司福建省分行向本院出具《担保函》（保函编号：GB0953718000041），承诺为高通公司的上述申请提供人民币300,000,000元的担保。

With respect to the dispute over infringement of invention patent involving Plaintiff Qualcomm Incorporated (hereinafter referred to as "Qualcomm") and the defendants Apple Computer Trading (Shanghai)

Co., Ltd. (hereinafter referred to as "Apple Computer Trading"), Apple Electronics Product Commerce (Beijing) Co., Ltd. (hereinafter referred to as "Apple Beijing"), Apple Trading (Shanghai) Co., Ltd. (hereinafter referred to as "Apple Shanghai"), Apple Electronics Product Commerce (Beijing) Co., Ltd. Fuzhou Thaihot Branch (hereinafter referred to as "Apple Fuzhou"), the Court docketed the case on November 15, 2017. On July 10, 2018, the applicant Qualcomm requested the Court to enjoin all the defendants to cease infringing patent right prior to judgment, including: (1) the following preservation measures shall be taken against the respondents Apple Computer Trading, Apple Beijing, Apple Shanghai, Apple Fuzhou: to enjoin Apple Computer Trading to immediately cease importing and selling the accused products infringing the asserted patent (Patent No. ZL200480042119.X), including iPhone 6s, iPhone 6s Plus, iPhone 7, iPhone 7 Plus, iPhone 8, iPhone 8 Plus and iPhone X; to enjoin Apple Beijing to immediately cease selling and offering to sell the accused products infringing the asserted patent, and immediately delete the information in relation to the accused products, including promotion advertisement, offering to sell and purchase links etc. on its Apple website (www.apple.com.cn); to enjoin Apple Shanghai to immediately cease selling and offering to sell the accused products infringing the asserted patent; to enjoin Apple Fuzhou to immediately cease selling and offering to sell the accused products infringing the asserted patent; and (2) the effectiveness of the above-mentioned behaviour preservation measures shall be maintained until the judgment on the case comes into effect. Bank of China Fujian Prov. Branch issued a *Letter of Guarantee* (No. GB0953718000041) to the

Court, and promised to provide an injunction bond of RMB 300,000,000 for Qualcomm.

本院认为，根据《中华人民共和国民事诉讼法》第一百条“人民法院对于可能因当事人一方的行为或者其他原因，使判决难以执行或者造成当事人其他损害的案件，根据对方当事人的申请，可以裁定对其财产进行保全、责令其作出一定行为或者禁止其作出一定行为；当事人没有提出申请的，人民法院在必要时也可以裁定采取保全措施”之规定，高通公司请求责令上海苹果电脑公司、北京苹果公司、上海苹果公司、北京苹果福州公司先行停止被诉侵权行为，具有程序法依据。

The Court holds that according to Article 100 of the *Civil Procedure Law of the People's Republic of China* which stipulates that "in the event that the judgment on the case may become impossible to enforce or such judgment may cause damage to a party because of the conduct of the other party to the case or because of any other reason, the people's court may, upon the request of the said party, order the preservation of the property of the other party, specific performance or injunction; in the absence of such request, the people's court may, where it deems necessary, may also order property preservation measures", Qualcomm's request for an injunction against the accused acts of Apple Computer Trading, Apple Beijing, Apple Shanghai, and Apple Fuzhou has statutory grounding in the procedural law.

《最高人民法院关于对诉前停止侵犯专利权纠纷行为适用法律问题的若干规定》第三条规定：“专利权人或者利害关系人向人民法院提出申请，应当递交书面申请状；申请状应当载明当事人及

其基本情况、申请的具体内容、范围和理由等事项。申请的理由包括有关行为如不及时制止会使申请人合法权益受到难以弥补的损害”；第四条规定：“申请人提出申请时，应当提交下列证据：（一）专利权人应当提交证明其专利权真实有效的文件，包括专利证书、权利要求书、说明书、专利年费交纳凭证。提出的申请涉及实用新型专利的，申请人应当提交国务院专利行政部门出具的检索报告。（二）利害关系人应当提供有关专利实施许可合同及其在国务院专利行政部门备案的证明材料，未经备案的应当提交专利权人的证明，或者证明其享有权利的其他证据。排他实施许可合同的被许可人单独提出申请的，应当提交专利权人放弃申请的证明材料。专利财产权利的继承人应当提交已经继承或者正在继承的证据材料。（三）提交证明被申请人正在实施或者即将实施侵犯其专利权的行为的证据，包括被控侵权产品以及专利技术与被控侵权产品技术特征对比材料等。”依据上述规定，本院对高通公司提交的相关证据审查如下：

Article 3 of the Several Provisions of the Supreme People's Court for the Application of Law to Pre-trial Cessation of Infringement of Patent Right provides that, "any patentee or interested party who files an application with the people's court shall submit the application in writing, in which shall be clearly indicated the interested party per se and the basic information thereof, the contents and scope of and reasons for the application. The reasons for the application shall include the specific statement that irremediable damages will be done to the legitimate rights and interests of the applicant if the relevant act is not to be promptly ceased." Article 4 stipulates that, "the applicant

shall submit the following evidence when filing an application: (1) The patentee shall submit document proving the authenticity and validity of its or his patent right, including, among other things, the patent certificate, claims, description and receipt of payment of the patent annuity. Where the application filed relates to a patent for utility model, the applicant shall submit the search report made by the Patent Administrative Department under the State Council. (2) The interested party shall submit the patent licensing contract and the proof of filing the contract with the Patent Administrative Department under the State Council; where the contract is not filed therewith, it or he shall submit the certificate of the patentee or other evidence showing that it or he enjoys the right. Where the licensee of an exclusive licensing contract files an application alone, it or he shall submit the proof of abandonment by the patentee of the application. The heir to the patent property right shall submit evidence indicating that it or he has already inherited or is in the process of inheriting the property right of the patent. (3) Evidence shall be submitted to prove that the party against whom an application is filed is committing or will commit an act of infringing its or his patent right, including proofs of the allegedly infringing product and the reference material comparing the technical features of the patented technology and the allegedly infringing product". In accordance with provisions mentioned above, the examination for evidence submitted by Qualcomm is as follows:

首先，高通公司向本院提交了涉案发明专利“具有人机工程成像功能的移动终端和方法”（专利号：ZL200480042119.X）的专利登记簿副本，证实了高通公司目前为涉案专利的专利权人的事实。上

述证据同时可以证明涉案专利目前处于有效状态。

Firstly, the copy of patent register of the asserted invention patent *Mobile Terminal and Method with Ergonomic Imaging Functions* (Patent No.: ZL200480042119.X) has proved that Qualcomm is the current patentee thereof. The aforementioned evidence has also proved that the asserted patent is currently valid.

其次，高通公司向本院提交了相关公证书：(2018)闽证经字第 270 号、(2017)闽证内字第 02512 号、(2017)京方圆内经证字第 63664 号、(2017)沪徐证经字第 13833 号、(2017)京方圆内经证字第 63760 号、(2017)京方圆内经证字第 63759 号、(2017)闽证内字第 02667 号、(2017)京长安内经证字第 36304 号、(2017)京长安内经证字第 43652 号、(2017)京长安内经证字第 40630 号、(2018)京方圆内经证字第 22842 号、(2018)京方圆内经证字第 22878 号、(2017)沪徐证经字第 16497 号、(2018)沪静证经字第 1963 号、(2017)京长安内经证字第 36779 号、(2017)京长安内经证字第 36780 号、(2017)京长安内经证字第 43653 号、(2017)京长安内经证字第 43654 号、(2017)京长安内经证字第 44539 号，证明：北京苹果公司、上海苹果公司、北京苹果福州公司实施了许诺销售、销售涉嫌侵权产品 iPhone6s, iPhone6s Plus, iPhone7, iPhone7 Plus, iPhone8, iPhone8Plus 和 iPhoneX 的行为，上海苹果电脑公司实施了进口、销售上述侵权产品的行为。

Secondly, Qualcomm submitted the following notarial certificates to the Court: Min Zheng Jing Zi No.270 (2018) , Min Zheng Nei Zi No.02512 (2017), Jing Fang Yuan Nei Jing Zheng Zi No.63664 (2017), Hu Xu Zheng Jing Zi No. 13833 (2017), Jing Fang Yuan Nei Jing Zheng Zi No. 63760 (2017), Jing Fang Yuan Nei Jing Zheng Zi No. 63759 (2017), Min Zheng Nei Zi No. 02667 (2017), Jing Chang An Nei Jing Zheng Zi No. 36304(2017), Jing Chang An Nei Jing

Zheng Zi No. 43652 (2017), Jing Chang An Nei Jing Zheng Zi No. 40630 (2017), Jing Fang Yuan Nei Jing Zheng Zi No. 22842 (2018), Jing Fang Yuan Nei Jing Zheng Zi No. 22878 (2018), Hu Xu Zheng Jing Zi No. 16497 (2017), Hu Jing Zheng Jing Zi No.1963 (2018), Jing Chang An Nei Jing Zheng Zi No. 36779 (2017), Jing Chang An Nei Jing Zheng Zi No. 36780 (2017), Jing Chang An Nei Jing Zheng Zi No. 43653 (2017), Jing Chang An Nei Jing Zheng Zi No. 43654 (2017), Jing Chang An Nei Jing Zheng Zi No. 44539 (2017). All certificates together proved that Apple Beijing, Apple Shanghai, Apple Fuzhou have offered to sell and sold the accused products including iPhone 6s, iPhone 6s Plus, iPhone 7, iPhone 7 Plus, iPhone 8, iPhone 8 Plus and iPhone X, and that Apple Computer Trading has imported and sold the same.

第三，高通公司向本院提交了国工信安司鉴所【2018】知鉴字第 27、54、117、119、121、123、125 号《司法鉴定意见书》，证明 iPhone6s, iPhone6sPlus,iPhone7,iPhone7 Plus, iPhone8, iPhone8 Plus 和 iPhoneX 采用的技术方案中的相应技术特征与高通公司的 ZL200480042119.X 的专利权利要求 1、7 的技术特征相同。

Thirdly, the Judicial Appraisal Reports submitted by Qualcomm, Guo Gong Xin An Si Jian Suo Zhi Jian Zi [2018] Nos. 27, 54, 117, 119, 121, 123, 125, have proved that the technical features adopted in technical solutions of iPhone 6s, iPhone 6s Plus, iPhone 7, iPhone 7 Plus, iPhone 8, iPhone 8 Plus and iPhone X remain the same as the patent claims 1 and 7 in Qualcomm's patent ZL200480042119.X.

第四，高通公司提供了第 36594 号《无效宣告请求审查决定书》，证明：本专利经过无效宣告程序，被决定维持专利权全部有效。

Fourth, the *Examination Decision on Request for Invalidation No. 36594* submitted by Qualcomm proved that the asserted patent has

been fully maintained valid in the invalidation procedure.

第五，中国银行股份有限公司福建省分行向本院出具《担保函》（保函编号：GB0953718000041），承诺为高通公司的上述申请提供人民币 300,000,000 元的担保。

Fifth, Bank of China Fujian Prov. Branch has issued a *Letter of Guarantee (No. GB0953718000041)*, providing an injunction bond of RMB 300,000,000 for Qualcomm.

经查，高通公司持有的“具有人机工程成像功能的移动终端和方法”（专利号：ZL200480042119.X）发明专利权利要求 7 为：

After investigation, Qualcomm owns the invention patent “Mobile terminal and method with ergonomic imaging functions” (Patent No. ZL200480042119.X), of which Claim 7 reads as follows:

A. 在可操作上执行成像功能和终端功能两种功能的移动设备中，一种处理由所述成像功能产生的图像以便指定到终端功能的装置，所述装置包括：

A. In a mobile device operable to perform both an imaging function and terminal functions, an apparatus of processing an image produced by the imaging function for assignment to a terminal function, the apparatus comprising:

B. 用于接收请求将所述图像指定到所述终端功能的第一用户指示的部件，所述图像具有使其至少部分不适合用于所述终端功能的至少一个显示属性；

B. means for receiving a first user indication requesting that the image be assigned to the terminal function, the image having at least one display attribute that makes it at least in part unsuitable for use

with the terminal function;

C. 用于使用指示在显示屏上所述图像特定区域的位置的第二用户输入来改变所述图像的所述至少一个显示属性以使所述图像更适合用于所述终端功能的部件；以及

C. means for altering the at least one display attribute of the image using a second user input indicating the location of a specific area of the image on a display screen so that the image is more suitable for use with the terminal function; and

D. 用于将所述图像指定到所述终端功能的部件；

D. means for assigning the image to the terminal function,

E. 其中，在垂直定向上显示的相同图像被调整大小以使得所述相同图像在水平位置上显示。

E. wherein, in the vertical orientation of the display the same image is resized so that the same image is displayed in the horizontal position.

通过对比权利要求 7，并操作 iPhone6s, iPhone6s Plus, iPhone7, iPhone7Plus, iPhone8, iPhone8Plus 和 iPhoneX 手机，可以明确上述涉嫌侵权产品存在以下技术特征：a.在能执行成像功能、将图像指定到屏幕墙纸功能的手机中，处理由成像功能产生的图像以便指定到屏幕壁纸的装置，所述装置包括：b.用于接收请求将图像指定到屏幕墙纸的第一用户指示的部件，该图像具有部分不适合用于屏幕墙纸的功能的至少一个显示属性，例如图像大小超过屏幕能够容纳的范围，或图像中需要显示的部分未能在屏幕上显示；c.用于使用指示在显示屏上图像特定区域的位置的第二用户输入，来改变图像的至少一个显示属性，以使该图像更适合用于屏幕墙纸功能的部件，例

如对图像进行裁剪、调整图像在屏幕上显示的区域；以及；d.用于将图像指定到屏幕墙纸功能的部件；e.其中，在垂直定向上显示的相同图像被调整大小以使得相同图像在水平位置上显示。上述技术特征与权利要求 7 的相应技术特征相同。

By comparing Claim 7 with the operation of iPhone 6s, iPhone 6s Plus, iPhone 7, iPhone 7 Plus, iPhone 8, iPhone 8 Plus and iPhone X, it is clear that the accused products include the following technical features: a. In a mobile phone operable to perform both an imaging function and assigning an image to the Wallpaper function, an apparatus of processing an image produced by the imaging function for assignment to the Wallpaper, the apparatus comprising: b. means for receiving a first user indication requesting that the image be assigned to the Wallpaper, the image having at least one display attribute that makes it in part unsuitable for use with the Wallpaper function, for example, the image size is not suitable for the screen, or the portion of the image that needs to be displayed is not displayed on the screen; c. means for altering at least one display attribute of the image using a second user input indicating the location of a specific area of the image on a display screen so that the image is more suitable for use with the Wallpaper function, such as adjusting the image to display a desired size or region; and d. means for assigning the image to the Wallpaper function; e. wherein, in the vertical orientation of the display the same image is resized so that the same image is displayed in the horizontal position. The above technical features are same as the corresponding technical features of Claim 7.

基于上述审查的事实，本院认为，高通公司向本院提交的现有

证据能够证明上海苹果电脑公司、北京苹果公司、上海苹果公司、北京苹果福州公司涉嫌未经专利权人许可，为生产经营目的实施涉案专利，具体行为表现在：上海苹果电脑公司进口、销售侵害涉案专利（专利号：ZL200480042119.X)的产品 iPhone6s， iPhone6s Plus,iPhone7,iPhone7 Plus,iPhone8， iPhone8Plus 和 iPhoneX；北京苹果公司销售、许诺销售上述侵害涉案专利的产品，并在其主办的苹果公司网站（网址：www.apple.com.cn)中提供上述侵权产品的宣传广告、许诺销售、购买链接等信息；上海苹果公司销售、许诺销售上述侵害涉案专利的产品；北京苹果福州公司销售、许诺销售上述侵害涉案专利的产品。

Based on the facts found in the above examination, the Court holds that, the existing evidence submitted by Qualcomm to the Court can prove that Apple Computer Trading, Apple Beijing, Apple Shanghai and Apple Fuzhou are suspected of exploiting the asserted patent for production or business purposes without the authorization of the patentee. Specifically, Apple Computer Trading imports and sells the accused products infringing the asserted patent (Patent No. ZL200480042119.X), including iPhone 6s, iPhone 6s Plus, iPhone 7, iPhone 7 Plus, iPhone 8, iPhone 8 Plus and iPhone X; Apple Beijing sells and offers to sell the accused products infringing the asserted patent, and provides the information in relation to the accused products, including promotion advertisement, offering to sell and purchase links etc. on its Apple website (www.apple.com.cn); Apple Shanghai sells and offers to sell the accused products infringing the asserted patent; and Apple Fuzhou sells and offers to sell the accused products infringing the asserted patent.

该四公司具有侵害专利权或者帮助侵权的可能性。高通公司在书面申请中声明了上述行为如不被及时制止可能给专利权人的合法权益造成难以弥补的损害，具体表现在：1.后续侵权赔偿数额难以计算。2.如不在现阶段通过行为保全使侵权行为停止，则高通公司的损害将会因新型号手机的上市不可避免地进一步扩大。3.侵权行为将对中国市场上已经与高通公司建立许可关系的其他手机生产商造成难以弥补的产品竞争力损害，进而对高通公司与这些合作伙伴之间的商业合作关系造成难以弥补的损害。本院认为，由于被诉侵权行为正在现实、持续地发生，而本案的审理直至最终做出生效判决需要一定的周期，在此期间高通公司确有可能因上海苹果电脑公司、北京苹果公司、上海苹果公司、北京苹果福州公司的被诉侵权行为而遭受难以弥补的损失，且高通公司已就其申请提供了符合法律规定的担保。

The four defendants are likely to infringe patent rights or aid the infringement. In the application, Qualcomm states that the above acts may cause irreparable damage to the legitimate rights and interests of the patentee if not ceased in time, specifically, 1. The amount of follow-up damages is difficult to calculate; 2. If the infringement is not stopped under behavioural preservation at this stage, the damage of Qualcomm will inevitably be further expanded due to the introduction of new phone models; 3. The infringement will cause irreparable damage to the product competitiveness of other mobile phone manufacturers that have established a licensing relationship with Qualcomm in the Chinese market, which will cause irreparable damage to the commercial cooperation between Qualcomm and these

partners. The Court holds that, the accused acts exist actually and continuously, and the trial of this case will last a certain period until the final judgment is rendered. During this period, Qualcomm is likely to suffer irreparable losses due to the accused acts of Apple Computer Trading, Apple Beijing, Apple Shanghai, and Apple Fuzhou, and Qualcomm has provided injunction bond in accordance with law.

此外，高通公司声明本案裁判文书不适用苹果公司委托和硕联合科技股份有限公司、仁宝电脑工业股份有限公司制造的蜂窝产品，因此，本裁定所涉及的产品不包括由和硕联合科技股份有限公司、仁宝电脑工业股份有限公司制造的产品。

In addition, Qualcomm states that the judgment and ruling of this case are not applicable to the cellular products manufactured by Pegatron Corporation or Compal Electronics Inc. with the commission of Apple Inc., which means that the accused products exclude the products manufactured by Pegatron Corporation and Compal Electronics Inc..

综上，高通公司提出的行为保全申请符合法律规定，应予支持。依照《中华人民共和国民事诉讼法》第一百条、第一百零二条、《最高人民法院关于对诉前停止侵犯专利权行为适用法律问题的若干规定》第十四条、第十七条之规定，裁定如下：

In summary, Qualcomm's request for an injunction is in accordance with law, thus should be supported. The Court orders as follows under the Articles 100 and 102 of the *Civil Procedure Law of the People's Republic of China*, and Articles 14 and 17 of the *Several Provisions of the Supreme People's Court for the Application of Law to Pre-trial Cessation of Infringement of Patent Right*:

一、苹果电脑贸易（上海）有限公司立即停止进口、销售侵害涉案专利（专利号：ZL200480042119.X）的侵权产品 iPhone6s,iPhone6s Plus,iPhone7,iPhone7 Plus,iPhone8,iPhone8 Plus 和 iPhoneX（不包含由和硕联合科技股份有限公司、仁宝电脑工业股份有限公司制造的产品）；

1. Apple Computer Trading (Shanghai) Co., Ltd. shall immediately cease importing and selling the accused products infringing the asserted patent (Patent No. ZL200480042119.X), including iPhone 6s, iPhone 6s Plus, iPhone 7, iPhone 7 Plus, iPhone 8, iPhone 8 Plus and iPhone X (excluding products manufactured by Pegatron Corporation and Compal Electronics Inc.);

二、苹果电子产品商贸（北京）有限公司立即停止销售、许诺销售侵害上述涉案专利的侵权产品 iPhone6s , iPhone6s Plus,iPhone7,iPhone7 Plus,iPhone8,iPhone8 Plus 和 iPhoneX（不包含由和硕联合科技股份有限公司、仁宝电脑工业股份有限公司制造的产品），并立即删除其主办的苹果公司网站（网址：www.apple.com.cn）中涉及侵权产品的宣传广告、许诺销售、购买链接等信息；

2. Apple Electronic Products Commerce (Beijing) Co., Ltd. shall immediately cease selling and offering to sell the accused products infringing the above-mentioned patent, including iPhone 6s, iPhone 6s Plus, iPhone 7, iPhone 7 Plus, iPhone 8, iPhone 8 Plus and iPhone X (excluding those manufactured by Pegatron Corporation and Compal Electronics Inc.), and immediately delete the information in relation to the accused products, including promotion advertisement, offering to sell and purchase links etc. on its Apple website

(www.apple.com.cn);

三、苹果贸易（上海）有限公司立即停止销售、许诺销售侵害涉案专利的侵权产品 iPhone6s, iPhone6s Plus, iPhone7, iPhone7 Plus, iPhone8,iPhone8 Plus 和 iPhoneX（不包含由和硕联合科技股份有限公司、仁宝电脑工业股份有限公司制造的产品）；

3. Apple Trading (Shanghai) Co., Ltd. shall immediately cease selling and offering to sell the accused products infringing the asserted patent, including iPhone 6s, iPhone 6s Plus, iPhone 7, iPhone 7 Plus, iPhone 8, iPhone 8 Plus and iPhone X (excluding those manufactured by Pegatron Corporation and Compal Electronics Inc.);

四、苹果电子产品商贸（北京）有限公司福州泰禾分公司立即停止销售、许诺销售侵害涉案专利的侵权产品 iPhone6s,iPhone6s Plus,iPhone7,iPhone7 Plus,iPhone8,iPhone8 Plus 和 iPhoneX（不包含由和硕联合科技股份有限公司、仁宝电脑工业股份有限公司制造的产品）。

4. Apple Electronic Products Commerce (Beijing) Co., Ltd. Fuzhou Thaihot Branch shall immediately cease selling and offering to sell the accused products infringing the asserted patent, including iPhone 6s, iPhone 6s Plus, iPhone 7, iPhone 7 Plus, iPhone 8, iPhone 8 Plus and iPhone X (excluding those manufactured by Pegatron Corporation and Compal Electronics Inc.).

案件受理费 5000 元，由高通股份有限公司负担。

The application fee is RMB 5,000, which shall be borne by Qualcomm.

本裁定书送达后立即开始执行。本裁定的效力持续至本案判决

生效之日止。

The order shall be executed upon its service. The order will remain effective until the judgement of this case comes into effect.

如不服本裁定，可在收到裁定书之日起十日内向本院申请复议一次。复议期间不停止裁定的执行。

Against the order rendered, a party may apply for reconsideration once within 10 days after receiving the order. The enforcement of the order shall not be suspended during the period of reconsideration.

审 判 长	林 丽 娟
审 判 员	潘 箜
审 判 员	徐 方
Presiding Judge	Lin Lijuan
Judge	Pan Zheng
Judge	Xu Fang

Seal of Fuzhou Intermediate People's Court

二〇一八年十一月三十日

November 30, 2018

法 官 助 理	刘 启 鸣
Judge Assistant	Liu Qiming
书 记 员	谢 海 灵
Clerk	Xie Hailing

附：本裁定书主要引用的法律条文

Attachment: main provisions cited in this ruling

一、《中华人民共和国民事诉讼法》

1. *Civil Procedure Law of the People's Republic of China*

第一百条 人民法院对于可能因当事人一方的行为或其他原因，使判决难以执行或者造成当事人其他损害的案件，根据对方当事人的申请，可以裁定对其财产进行保全、责令其作出一定行为或者禁止其作出一定行为；当事人没有提出申请的，人民法院在必要时也可以裁定采取保全措施。

Article 100 For a case where, for the conduct of a party or for other reasons, it may be difficult to execute a judgment or any other damage may be caused to a party, a people's court may, upon application of the opposing party, issue a ruling on preservation of the party's property, order certain conduct of the party or prohibit the party from certain conduct; and if no party applies, the people's court may, when necessary, issue a ruling to take a preservative measure.

人民法院采取保全措施，可以责令申请人提供担保，申请人不提供担保的，裁定驳回申请。

A people's court may order the applicant to provide security for taking a preservative measure and, if the applicant fails to provide security, shall issue a ruling to dismiss the application.

人民法院接受申请后，对情况紧急的，必须在四十八小时内作出裁定；裁定采取保全措施的，应当立即开始执行。

After accepting an application, a people's court must, if the circumstances are urgent, issue a ruling within 48 hours; and if it rules

to take a preservative measure, the measure shall be executed immediately.

第一百零二条 保全限于请求的范围,或者与本案有关的财物。

Article 102 Preservation shall be limited to the extent specified in an application or the property in connection with the case.

二、《最高人民法院关于对诉前停止侵犯专利权行为适用法律问题的若干规定》

2. Several Provisions of the Supreme People's Court for the Application of Law to Pre-trial Cessation of Infringement of Patent Right

第十四条 停止侵犯专利权行为裁定的效力,一般应维持到终审法律文书生效时止。人民法院也可以根据案情,确定具体期限;期限届满时,根据当事人的请求仍可作出继续停止有关行为的裁定。

Article 14 The ruling ordering to cease the infringement of patent right shall generally remain effective until the final legal instrument comes into effect. The people's court may also fix a specific time limit according to the facts of the case; after the expiration of the time limit, the people's court may make a ruling for continued cessation of the relevant act at the request of the interested party.

第十七条 专利权人或者利害关系人向人民法院提起专利侵权诉讼时,同时提出先行停止侵犯专利权行为请求的,人民法院可以先行作出裁定。

Article 17 Where the patentee or the interested party simultaneously requests for ceasing an act of patent infringement in

advance when it or he institutes proceedings against the act, the people's court may first make its determination.