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ITC Ruling for Tessera Over Chip Firms Upheld

By Dylan McGrath

SAN FRANCISCO—A U.S. federal appeals court Wednesday (Dec. 21) upheld a determination made by the U.S. International Trade Commission (ITC) last year that several chip makers were infringing two patents held by Tessera Technologies Inc.

Wednesday's ruling by the U.S. Court of Appeals for the Federal Circuit affirmed a ban ordered by the ITC last year against a broad range of chips using fine-pitch BGA packages. The ban was ordered in May 2009 against chips sold by Spansion Inc., Freescale Semiconductor Inc., ATI Technologies (now part of AMD), STMicroelectronics NV and Qualcomm Inc.

The ban was in place from July 20, 2009, to September 24 of this year, at which point the Tessera patents involved in the case expired, according to Bernard Cassidy, Tessera's general counsel.

Cassidy said that though the patents have expired, the appellate court's affirmation of the ITC ruling is significant because the ITC's final determination should serve as an important precedent in ongoing litigation against the chip vendors in district courts. Tessera is seeking damages from the companies involved in the suits for the period of alleged infringement.

Because the district courts are also overseen by the U.S. Court of Appeals for the Federal Circuit, the court's upholding of the ITC determination means that persuading a district court that the patents were not infringed "would be a difficult, uphill battle," according to Cassidy.

The appellate court affirmed the ITC's final determination in all respects, [ruling](#) that the ITC's decision was supported by substantial evidence and contained no errors of law.

Cassidy said the defendants have 45 days to petition in the Court of Appeals for a rehearing and could eventually also appeal to the Supreme Court. While he said that he believes there is nothing in the case that would merit an appeal in either case, he said, "I would not be surprised if our adversaries continued to litigate."

A Qualcomm spokesperson said Wednesday's ruling would have no impact on the company's ability to continue to ship product. "Tessera has the option of pursuing a district court action for any back damages that may be relevant to the expired patents," the Qualcomm spokesperson said.

An AMD spokesperson said the company has still reviewing the decision but does believe it will have an impact on the company's current business.

A spokesperson for Spansion said the company anticipates little impact from Wednesday's ruling. Tessera will still need to prove that infringement and damages occurred in a separate case awaiting trial in U.S. District Court for the Northern District of California, the spokesperson said. Wednesday's ruling has no legally binding effect on the California case, the spokesperson said. Spansion continues to maintain that the Tessera patents at issue are invalid, said the spokesperson, who noted that the U.S. Patent and Trademark Office previously found them invalid.

The ban, which went into effect in July 2009, [caused an uproar in the semiconductor industry](#) because it touched chips that went into everything from high-profile products such as the Amazon Kindle to netbooks, mainstream cellphones, set-top boxes, digital cameras and an often unseen world of embedded systems such as industrial controls.

Companies affected by the ban found various ways around it, such as contracting for packaging and assembly with vendor Amkor Technology Inc., which has a license for the Tessera technology. But Tessera has previously argued that this is not sufficient to protect the companies from paying damages to Tessera.

<http://www.eetimes.com/electronics-news/4211644/ITC-ruling-for-Tessera-over-chip-firms-upheld>