

IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

FEDERAL TRADE COMMISSION,

*Plaintiff-Appellee,*

v.

No. 19-16122

QUALCOMM INCORPORATED,

*Defendant-Appellant.*

**MOTION OF THE UNITED STATES FOR LEAVE  
TO PARTICIPATE IN ORAL ARGUMENT AS AMICUS CURIAE**

Pursuant to Fed. R. App. P. 29(a)(8), the United States respectfully requests leave to participate as amicus curiae in the February 13, 2020 oral argument in the above-captioned case and asks that it be allotted five minutes of argument time independent of and in addition to the time allocated to the parties, or, in the alternative, from Defendant-appellant's allocated time.

The United States enforces the federal antitrust laws and has a significant interest in their correct application in both public and private antitrust enforcement actions in order to protect competition

and innovation in a way that is consistent with national security. On August 20, 2019, the United States submitted an amicus brief that identified several deficiencies in the district court's application of the antitrust laws to Qualcomm's patent-licensing practices. The district court's erroneous reasoning and overly broad remedy threaten to stifle competition for innovation in next-generation telecommunications technology and to compromise national security. The United States seeks to participate at oral argument to advance its distinctive interests in this case.

The United States also believes that its participation at oral argument would assist the Court in deciding the significant issues this case presents, just as its filing assisted the Court's assessment of Defendant-appellant's application for a stay. Order Granting Qualcomm's Motion for Partial Stay Pending Appeal, *FTC v. Qualcomm Inc.* at 4, 6, No. 19-16122 (9th Cir. Aug. 23, 2019) (referring to United States' statements).

Accordingly, the United States requests five minutes of independent argument time. The Plaintiff-appellee does not oppose this request so long as it is granted the same amount of time as the

combined time of the United States and Defendant-appellant. The Defendant-appellant consents to this request. In the event the Court is inclined to deny this request, Defendant-appellant does not oppose five minutes being taken from its own allocated time.

Respectfully submitted.

January 9, 2020

/s/ Michael F. Murray  
MICHAEL F. MURRAY  
*Deputy Assistant Attorney General*  
U.S. DEPARTMENT OF JUSTICE  
ANTITRUST DIVISION  
950 Pennsylvania Ave., N.W.  
Washington, D.C. 20530-0001  
(202) 353-0163  
michael.murray@usdoj.gov  
  
*Counsel for the United States*

## **CERTIFICATE OF COMPLIANCE**

Pursuant to Fed. R. App. P. 32(g)(1), I certify that this Brief complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A) because this Brief contains 306 words, excluding the parts of the Brief exempted by Fed. R. App. P. 32(f).

I further certify that this Brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because the Brief has been prepared in New Century Schoolbook, 14-point font, using Microsoft Office Word 2019.

/s/ Jeffrey D. Negrette  
*Counsel for the United States*

**CERTIFICATE OF SERVICE**

I certify that on January 9, 2020, I caused the foregoing to be filed through this Court's CM/ECF system, which will serve a notice of electronic filing on all registered users, including counsel for the parties.

/s/ Jeffrey D. Negrette  
*Counsel for the United States*