

HTC calls ITC ruling a ‘victory’ over Apple

By Robin Kwong in Taipei and Richard Waters in San Francisco



HTC has claimed victory over Apple in a closely watched intellectual property case for the smartphone industry, despite a US court ruling that imposes a ban on the import of some of HTC’s handsets into the US.

The Taiwanese company said the **final ruling by the US International Trade Commission “declared an actual victory for HTC”** because it found that HTC had only infringed on one patent out of 10 complaints made by Apple, and rejected two of the four claims on the patent that had been upheld in an earlier decision. The court also gave HTC until April 19 next year to comply with the ruling.

“Since the infringing elements identified by the ITC involve and impact only a very minimal part of the user interface, we will remove it as soon as possible and sell non-infringing products,” the company said on Tuesday in a statement to Taiwan’s stock exchange.

Monday’s decision has been seen as a **key test in the patent wars** that have embroiled much of the **smartphone industry**. Analysts and legal experts say the limited ruling showed Apple

achieving only minor success in slowing the advance of Google Android phonemakers like HTC and Samsung via legal measures.

The Google software is included in more than half of the smartphones sold in the US, with HTC accounting for around 10 per cent of total sales, according to market estimates.

Pierre Ferragu, analyst at Bernstein, said he believed the ruling would have little consequence for HTC's business in the US, its biggest market. "It shows one more time that obtaining import bans that actually have an impact on business dynamics is very difficult," he said.

Ron Cass, a former vice-chairman of the ITC, said: "If I'm HTC – and particularly if I'm Google – I'm feeling a lot better today than if I'm Apple."

Nevertheless, Jasmine Lu, analyst at Morgan Stanley, said that while the legal decision won't affect HTC's business, the trend of HTC losing market share in the US is one that is unlikely to reverse in the short term.

"The real threat comes from others in the Android camp – both from the high end (mainly Samsung) and the mid- to low end (China-based names) – while wider distribution of [the] iPhone 4S largely eats into its pie," she wrote in a note to clients.

HTC on Tuesday also announced a share buy-back program worth up to T\$6.5bn (\$214m), moving to shore up its stock which has been battered in recent weeks. In addition to the uncertainty surrounding the court cases, HTC has also seen its sales take a hit from weaker consumer demand in the US and Europe, and from increasingly intense competition from Apple and Samsung.

HTC earlier this month slashed its fourth-quarter revenue forecast by a fifth, just three weeks after issuing already conservative guidance. That hit its shares, sending them down sharply from nearly T\$700 in mid-November.

HTC said it would buy up to 10m shares at T\$445-T\$650 each in the open market. Investors responded positively, sending HTC shares up by their daily limit of 7 per cent to close at T\$476 on Tuesday in Taipei.