

No. 21-1565

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

ERICSSON INC.,
TELEFONAKTIEBOLAGET LM ERICSSON,
Plaintiffs-Appellees,

v.

SAMSUNG ELECTRONICS CO. LTD., SAMSUNG ELECTRONICS
AMERICA, INC., SAMSUNG RESEARCH AMERICA, INC.,
Defendants-Appellants.

Appeal from the United States District Court for
the Eastern District of Texas in Case No. 2:20-CV-380,
Chief District Judge J. Rodney Gilstrap

**BRIEF OF *AMICI CURIAE* SENATOR THOM TILLIS,
HONORABLE PAUL R. MICHEL, AND
HONORABLE ANDREI IANCU IN SUPPORT OF APPELLEES**

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CERTIFICATE OF INTEREST

Counsel for *Amici Curiae* Senator Thom Tillis, Hon. Paul R. Michel, and Hon. Andrei Iancu states the following:

1. **Represented Entities.** Provide the full names of all entities represented by undersigned counsel in this case. Fed. Cir. R. 47.4(a)(1).

Senator Thom Tillis, Honorable Paul R. Michel, and
Honorable Andrei Iancu

2. **Real Party in Interest.** Provide the full names of all real parties in interest for the entities. Do not list the real parties if they are the same as the entities. Fed. Cir. R. 47.4(a)(2).

N/A

3. **Parent Corporations and Stockholders.** Provide the full names of all parent corporations for the entities and all publicly held companies that own 10% or more stock in the entities. Fed. Cir. R. 47.4(a)(3).

None.

4. **Legal Representatives.** List all law firms, partners, and associates that (a) appeared for the entities in the originating court or agency or (b) are expected to appear in this court for the entities. Do not include those who have already entered an appearance in this court. Fed. Cir. R. 47.4(a)(4).

Matthew J. Dowd, Robert J. Scheffel (Dowd Scheffel PLLC)
Peter J. Corcoran (Corcoran IP Law PLLC)

5. **Related Cases.** Provide the case titles and numbers of any case known to be pending in this court or any other court or agency that will directly affect or be directly affected by this court's decision in the pending appeal. Do not include the originating case number(s) for this case. Fed. Cir. R. 47.4(a)(5). See also Fed. Cir. R. 47.5(b).

None.

6. Organizational Victims and Bankruptcy Cases. Provide any information required under Fed. R. App. P. 26.1(b) (organizational victims in criminal cases) and 26.1(c) (bankruptcy case debtors and trustees). Fed. Cir. R. 47.4(a)(6).

None.

I certify the preceding information is accurate and complete to the best of my knowledge.

Date: April 9, 2021

/s/ Matthew J. Dowd
Signature of counsel
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Senator Thom Tillis,
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INTEREST OF *AMICI CURIAE*

Amicus Curiae Hon. Thom Tillis is a U.S. Senator and the ranking member of the Senate Committee on the Judiciary, Subcommittee on Intellectual Property. *Amicus Curiae* Hon. Paul R. Michel is a former Chief Judge of the U.S. Court of Appeals for the Federal Circuit. *Amicus Curiae* Hon. Andrei Iancu is a former Under Secretary of Commerce for Intellectual Property and Director of the U.S. Patent and Trademark Office.¹

For many years, *Amici* have served the American people, each in his or her respective capacity as a member of the legislative, judicial, or executive branch of the U.S. government. In faithfully carrying out their duties and fulfilling their obligations as public servants, they have occupied positions within the Government that have been directly relevant to and impactful upon the U.S. patent system, one of this Nation's critically important elements as contemplated by the Founding Fathers under Article I, Section 8, Clause 8 of the U.S. Constitution.

¹ No party's counsel authored this brief in whole or in part, and no party, party's counsel, or any other person has contributed money intended to fund the preparation or submission of this brief. All parties consent to the filing of this brief.

Amici's interest in the present appeal lies with the important consequences that may impact U.S. sovereignty and the jurisdiction of U.S. courts, as well as potential negative effects on U.S. patent policy. *Amici's* collective responsibilities and experiences over the years provide a unique perspective on how the present case may impact the administration of the U.S. judicial system and U.S. patent policy. Further, *Amici* offer an impartial view that could assist the Court in understanding the potential full impact of this case on the United States and the broader innovation sector.

BACKGROUND

Critical innovation in emerging technologies, such as 5G communications, artificial intelligence, autonomous vehicles, gene-based therapies, vaccine development, and so many more, is vitally important to the national security of the United States. The betterment of our collective experience depends on continued advances in these technologies. Those future advances in turn require broad technological access and proper protections and remuneration to innovators so that transformative companies and their ground-breaking scientists and

inventors will have the resources and incentives to continue on their paths of innovation.

The present appeal between Ericsson and Samsung raises serious concerns about how critical innovation will be valued in the marketplace and in courts. After lengthy discussions, Ericsson and Samsung could not agree on license agreements, including the patent licensing rates, for their respective standard essential patents (“SEPs”) covering 4G and 5G communications technology.² The patent licensing rates and other licensing terms were to be consistent with the parties’ FRAND obligations.³

As the negotiations stalled, Samsung went to a court in China, the Wuhan Intermediate People’s Court, and sought an “anti-suit injunction” to prevent Ericsson from litigating its FRAND and patent issues in the United States or anywhere else in the world. On December 25, 2020, the

² The involved patents include standard essential patents, meaning that the patented technology is essential to practicing the 4G and/or 5G communications technologies.

³ A FRAND agreement requires the parties to license the standard essential patents for a “fair, reasonable, and non-discriminatory” rate.

Wuhan court issued its sweeping anti-suit injunction, before Ericsson had any notice of the Chinese injunction even being sought.

Before the Wuhan court's injunction, however, Ericsson filed its own lawsuit in the United States, asserting infringement of several of its U.S. standard essential patents and asking the court to confirm that Ericsson had complied with its FRAND obligations. After the Wuhan injunction issued, Ericsson then asked the U.S. court to stop enforcement of that foreign injunction. Chief Judge Gilstrap in Texas granted Ericsson's request and issued an "anti-interference injunction," which effectively protects the U.S. court's ability to proceed with Ericsson's U.S. patent case (as well as any FRAND obligations and rate determination as it might apply to the United States) without interference by the Wuhan injunction.

The present dispute represents an extreme and concerning step in the increasingly contentious battles of where and how to resolve FRAND licensing disputes. The case has turned into an international dispute about the intrusion of a foreign court (in this instance, a Chinese court) asserting, without the parties' consent, unilateral control over global

patent-license rate-setting for critical 4G and 5G communications technologies.

This is an important issue that goes to the sovereignty of the United States. The Wuhan court's controversial injunction effectively tried to order a U.S. court to step aside and not determine acceptable patent licensing rates for U.S. patents, based on alleged acts of infringement on U.S. soil, through a lawsuit duly-filed in U.S. courts. In fact, without the consent of all parties and notice to all parties, the Wuhan court has unilaterally crowned itself the sole arbiter of global rate-setting for Ericsson's SEPs, irrespective of where those patents were issued or where the infringement occurred. The Wuhan court has taken similar action in other recent patent cases. The court's actions are a marked departure from precedent and the general norm in FRAND litigation over standard essential patents. As far as *Amici* know, no other court in the world has taken such action from the outset of the proceeding, without the parties' consent and without prior notice to all parties.

The U.S. district court here rejected the Wuhan court's incursion into the U.S. court's jurisdiction, explaining that "[t]he public interest strongly supports this Court's continued exercise of its jurisdiction."

Notably, the U.S. court is not alone in rejecting unquestioned compliance to the Wuhan court's order. So far, courts in Germany and India have responded similarly as the U.S. court has, and they issued anti-interference injunctions that push back on the expansive anti-suit injunctions issued by the very same Wuhan court in other cases.

Given the nature of the dispute, *Amici* offer their insight based on their varied collective experience and perspective for the Court's consideration.

SUMMARY OF THE ARGUMENT

First, the Wuhan court has done what no court anywhere in the world has done. It has declared itself the sole decider of global FRAND licensing terms without the full consent of the parties involved in the patent licensing negotiations. This lack of full consent is important because it embodies a sharp departure from judicial norms and precedent. A single foreign court's attempt to take control—without full party consent—over a dispute involving U.S. patents is a significant and serious intrusion on U.S. sovereignty and the jurisdiction of U.S. courts.

The U.S. district court here was correct to protect its jurisdiction from the Wuhan court's unilateral interference. While U.S. courts have

issued anti-suit injunctions in other FRAND-related cases, those examples are markedly different because, in each case, the parties agreed that the U.S. court could decide the global FRAND licensing terms. That is starkly different from what the Wuhan court has done. And absent that consent, it is difficult to see why any U.S. court would rightly cede its jurisdiction over a case involving the alleged infringement and valuation of U.S. intellectual property.

Moreover, Chief Judge Gilstrap's issuance of the anti-interference injunction is not the first time a court has rebuffed the Wuhan court's global aspirations. Thus far, as detailed below, courts in India and Germany in separate cases have likewise rejected the Wuhan court's attempted transborder reach. The U.S. court is therefore in accord with at least two other nations' courts.

Second, comity concerns do not warrant an unqualified obedience to a foreign court decision in FRAND disputes. There remain substantial differences in certain foreign legal court systems as compared to the U.S. legal system, and these differences can only be more pronounced when adjudicating intellectual property rights, which are inherently territorial. Other nations should not be permitted to impose judgments

that unilaterally constrain the ability of parties to adjudicate U.S. patents in U.S. courts, absent the parties' full and informed consent or other pertinent agreement.

Finally, *Amici* write in support of the U.S. court's ability to safeguard its jurisdiction. *Amici* do not address the finer details of the trial court's injunction in this case, and the associated remedies. *Amici* leave those nuances for the parties to debate.

ARGUMENT

I. The Chinese Anti-Suit Injunction Is a Marked and Improper Intrusion on U.S. Sovereignty and the Jurisdiction of U.S. Courts to Decide U.S. Patent Issues

No country should be permitted to interfere with the jurisdiction of U.S. courts to adjudicate the infringement of a U.S. patent on U.S. soil. In particular, U.S. courts cannot accept limitations on their jurisdiction imposed by foreign nations, as the Wuhan court has done here, without notice to all parties and without the consent of all parties or other pertinent agreement (such as a prior agreement by the relevant standards setting organization). The district court is correct in maintaining its jurisdiction over Ericsson's U.S. case.

A. The District Court was Justified in Protecting Its Jurisdiction Over the U.S. Patent Dispute

The district court in Texas correctly defended its jurisdiction to proceed with the U.S.-related patent claims and to determine whether any royalty or potential license of those U.S. patents satisfy Ericsson's FRAND licensing obligations. The Wuhan court was not correct to declare itself to be the "one court to rule them all."

What the Wuhan court has done is essentially declare itself to be the global tribunal that will set global FRAND licensing rates for any party that reaches its courthouse steps first. It unilaterally declared that it can issue an anti-suit injunction, before the other party even learns of the suit. And it will then proceed to determine the monetary value of patents from every other country. This is a violation of the sovereignty of the United States and the authority of U.S. courts to adjudicate the potential infringement of U.S. patents on U.S. soil. No other nation has proceeded in this fashion in FRAND cases. Nor has the United States, as explained below.

Additionally, Chief Judge Gilstrap's decision to proceed with the U.S. case is a proper exercise of the court's authority, given the extreme closeness in time between the two cases and the lack of notice offered to

Ericsson before the issuance of what appears to be, in effect, a permanent injunction. If the U.S. court had not proceeded, the logical result would be FRAND disputes devolving into a race to the local courthouse. Every other court in the world—including U.S. courts—will have to halt its patent proceedings, simply because a single court in the world received a case first—perhaps by a few minutes before another country’s court—and issued an injunction without notice and consent of all parties. Such a development would represent an extraordinary impingement on U.S. court sovereignty. The sovereignty of other nations’ courts would be similarly impinged.

For certain, *Amici* recognize that there may be the possibility of different outcomes if both the U.S. court and the Wuhan court proceed in resolving the patent disputes between these two parties. But that is always a possibility in patent litigation. Patents are territorial, and a U.S. patent can very well be different from the corresponding Chinese patent. *Cf. Voda v. Cordis Corp.*, 476 F.3d 887, 901 (Fed. Cir. 2007) (noting that “assuming jurisdiction over . . . foreign patent infringement claims could prejudice the rights of the foreign governments”). Infringement is territorial too, and market conditions in one country can

be—and usually are—very different from those in another. Different outcomes in different national patent litigations are in fact a reasonable outcome, given different patent laws. The possibility of different outcomes in patent-related cases is not sufficient reason for a court in Wuhan (or anywhere else) to order a court in Texas to stop adjudicating the potential infringement of a United States patent in the United States.

B. Absent an Agreement, the Parties Can Resolve Their Patent Disputes in the Courts of Various Nations

In this case, no global treaty, international law, or private contract requires the parties to litigate the dispute only in the Wuhan court. Nor is there a treaty, law, or contract requiring a single court to decide a global FRAND licensing rate for all involved jurisdictions. For these reasons, no national court should assume by judicial *fiat*—absent full party consent or other agreement—control over any determination of patent licensing rates or patent damages, even for patents subject to FRAND licensing obligations.

It is perhaps true that having a single court decide global FRAND rates for all involved patents could be more efficient. But we do not have a single world court or a single world sovereign tribunal to decide every case that may have implications in other jurisdictions. Nevertheless, the

Wuhan court's expansive and intrusive injunction subverts the national sovereignty of the courts of individual nations, including that of the United States.

Experience shows that sophisticated parties involved in FRAND licensing disputes can and will proceed in individual jurisdictions to resolve the underlying patent litigation disputes. Moreover, if sophisticated companies wanted to have a single court decide global FRAND rates and other licensing terms for all patents and all affected jurisdictions, those parties surely could have and would have included such a provision in their licensing agreement. These are some of the world's most sophisticated companies when it comes to patent-licensing arrangements. They know how to include a forum-selection clause in their agreement if they want to include such a clause.⁴ They also know how to include a dispute resolution clause that would require binding international arbitration. Alternatively, standard setting organizations could include such forum-selection clauses in their member agreements.

⁴ See, e.g., *Kannuu Pty. Ltd. v. Samsung Elecs. Co.*, No. 21-1638 (Fed. Cir. filed Jan. 19, 2021) (pending appeal concerning a forum-selection clause in a non-disclosure agreement for patent licensing discussions).

But without any such applicable pre-existing agreement about where and how to resolve global FRAND rates, a single court in China or elsewhere should not be permitted to seize control as the sole worldwide adjudicator of rate-setting for standard essential patents in various jurisdictions covering critically important 21st-century technologies.

Amici recognize that having FRAND determinations and rate-settings litigated in separate courts could possibly lead to differing judicial outcomes. Others may argue that this possibility is reason enough to avoid any possible tension in the international judicial landscape for patent law. But that mere possibility is not enough to condone the extreme step the Wuhan court has taken here. The reality is that FRAND litigations like this are private party disputes over intellectual property rights, often spanning across many nations due to the territorial nature of patent rights. Moreover, the private parties almost invariably reach an ultimate agreement, even with the possibility of multiple litigations from different countries on different patents—and without the need for one court to usurp the jurisdiction of the courts of all other countries.

Accepting the Wuhan court's aggressive expansion over global rate-setting will only encourage other jurisdictions to do the same. We will have a race to the local courthouse, where each nation's courts offer procedures that preemptively favor either the licensor or the licensee in future SEP FRAND disputes. Before long, we would have a polarized marketplace of jurisdictions for deciding global FRAND disputes. Courts in some countries, for example, could become the go-to jurisdiction for an implementer wanting rock-bottom licensing terms. Courts in other countries could go the other way, strongly favoring the innovator. Both the innovator and implementer communities should jointly work to avoid such outcomes.

C. U.S. Courts Have Not Attempted to Do What the Wuhan Court Has Done

The three prior U.S. cases involving anti-suit injunctions in the FRAND context show that the Wuhan court has done what no U.S. court has done to date. Unlike the Wuhan court, U.S. courts have adjudicated global FRAND licensing terms only with full party consent to the proceedings.

In *TCL Communication Technology Holdings Ltd. v. Telefonaktiebolaget LM Ericsson*, 943 F.3d 1360 (Fed. Cir. 2019), the

parties agreed to litigate the global licensing terms for the patent portfolio at issue. As this Court noted, when the parties' negotiations failed, "the parties agreed to engage in a binding court adjudication of terms for a worldwide portfolio license." *Id.* at 1365.

In *Microsoft Corp. v. Motorola, Inc.*, 696 F.3d 872 (9th Cir. 2012), there was no dispute among the parties that Judge Robart would decide the global FRAND rates. The dispute was whether the German injunction should be enforced globally. Because the parties had agreed to have a single U.S. court resolve the FRAND dispute, the U.S. court's resolution would effectively moot the German injunction. It was therefore proper to issue an anti-suit injunction blocking the enforcement of the German injunction so that the parties could continue with resolving the FRAND licensing part of the litigation in their mutually agreed-upon forum.

In *Huawei Technologies Co. v. Samsung Electronics Co.*, No. 3:16-cv-2787, 2018 WL 1784065 (N.D. Cal. Apr. 13, 2018), again the parties consented to having a single U.S. court decide whether the licensing terms complied with their FRAND obligations.

As shown, a driving principle in the above U.S. court decisions has been that the parties' consent is critically important. Of course, the parties or the relevant standards setting organization should be permitted to agree to resolve their disputes in a single court. But without such agreement, U.S. courts have not unilaterally declared global FRAND rates. The Wuhan court's injunction attempts to do what no U.S. court has done.⁵

D. Courts in Germany and India Have Similarly Resisted the Wuhan Court's Attempt to Seize Sole, Worldwide Control over 4G and 5G Patent Licensing Matters

Chief Judge Gilstrap is not alone in rejecting the Wuhan court's jurisdictional overreach. Courts in Germany and India have similarly rebuffed nearly identical attempts by the same Wuhan court to seize sole control over global patent licensing disputes when all parties do not consent.

⁵ See, e.g., Jorge L. Contreras, *Global Rate-Setting: A Solution for Standards-Essential Patents?*, 94 Wash. L. Rev. 701, 705 (2019) (observing that “[n]o SDO [*i.e.*, standards development organization] defines, even broadly, how to calculate royalty rates that are FRAND, and many SDOs expressly disclaim any role in establishing, interpreting, or adjudicating FRAND royalty rates”).

In a separate litigation, the Wuhan court issued a similar anti-suit injunction in a dispute between InterDigital Technology Corporation, a U.S.-based telecommunications company that owns patents covering mobile telecommunications technologies, and Xiaomi Communications, a China-based company that makes mobile phone products. *See InterDigital Tech. Corp. v. Xiaomi Corp.*, (2020) 295 CS 2020 (India). Xiaomi raced to the Wuhan court, and, without any public notice, the Wuhan court ordered InterDigital to refrain from litigating any patents in other courts. Similar to the events here, the Wuhan court unilaterally declared itself to be the sole rate-setter for FRAND patent licensing.

InterDigital fought back, however, seeking relief from courts in Germany and India. In both places, the courts recognized many of the same concerns raised in the present appeal. The New Delhi High Court in India emphasized the same questions about notice and due process, and it issued an anti-interference injunction, similar to what Chief Judge Gilstrap did in the present case.

More recently in Germany, the Regional Court of Munich affirmed a lower court's decision granting a similar anti-interference injunction to InterDigital. The Regional Court of Munich saw the Wuhan court's anti-

suit injunction to be an affront to the German court's jurisdiction and in direct violation of several German laws.

Appellant relies on the U.K. *Unwired Planet* decisions, but there are several significant differences between that proceeding and the Wuhan court's action. First, the U.K. court did not purport to impose an anti-suit injunction that would limit the jurisdiction of courts in other nations. Neither did the U.K. court purport to decide a global FRAND rate without the parties' consent from the beginning of the case. Instead, the U.K. court fashioned a remedy that proposed an option of accepting a global FRAND license to avoid an injunction that would have excluded the implementer from selling its products in the U.K. market. *Amici* take no position here on whether the *Unwired Planet* decisions are correct, but in no way do they justify the Wuhan court's anti-suit injunction.

The district court's decision in this case is thus in line with how other sovereign nations are treating the Wuhan court's injunction.

II. This Court's Analysis Ought to Consider Issues of Judicial Comity in Proper Context

A final point worth noting is the issue of respect for competing judicial fora and comity considerations.

As the Supreme Court explained, “[c]omity,’ in the legal sense, is neither a matter of absolute obligation, on the one hand, nor of mere courtesy and good will, upon the other.” *Hilton v. Guyot*, 159 U.S. 113, 163–64 (1895). Instead, “it is the recognition which one nation allows within its territory to the legislative, executive, or judicial acts of another nation, having due regard both to international duty and convenience, and to the rights of its own citizens, or of other persons who are under the protection of its laws.” *Id.* (quoted in *Kaepa, Inc. v. Achilles Corp.*, 76 F.3d 624, 629 n.2 (5th Cir. 1996)); *see also* Restatement (Third) of Foreign Relations Law of the United States, ch. 8, intro. note at 591 (Am. Law Inst. 1987) (“[T]here are no agreed principles governing recognition and enforcement of foreign judgments, except that no state recognizes or enforces the judgment of another state rendered without jurisdiction over the judgment debtor.”).

U.S. courts do and must assess comity concerns when issuing an anti-suit injunction or an anti-interference injunction. *See, e.g., Quak v. Klynveld Peat Marwick Goerdeler Bedrijfsrevisoren*, 361 F.3d 11, 17 (1st Cir. 2004) (explaining that the decision whether to grant an anti-suit injunction “must take account of considerations of international comity”);

Karaha Bodas Co. v. Perusahaan Pertambangan Minyak Dan Gas Bumi Negara, 335 F.3d 357, 366 (5th Cir. 2003) (“When a preliminary injunction takes the form of a foreign antisuit injunction, we are required to balance domestic judicial interests against concerns of international comity.”). Indeed, “from the earliest times, authorities have recognized that the obligation of comity expires when the strong public policies of the forum are vitiated by the foreign act.” *E. & J. Gallo Winery v. Andina Licores S.A.*, 446 F.3d 984, 995 (9th Cir. 2006) (quoting *Laker Airways Ltd. v. Sabena, Belgian World Airlines*, 731 F.2d 909, 937 (D.C. Cir. 1984)).

The anti-suit injunction issued by the Wuhan court ignores these basic principles. This is perhaps unsurprising, as China’s policy towards intellectual property is widely recognized as geared to favor its own state-owned or state-dominated companies.⁶ In March 2020, the U.S. Trade Representative reported to Congress that “Chinese government officials

⁶ See, e.g., White House Office of Trade and Mfg. Pol’y, *How China’s Economic Aggression Threatens the Technologies and Intellectual Property of the United States and the World* 7, 11-12 (June 2018); U.S. Trade Representative, *Update Concerning China’s Acts, Policies and Practices Related to Technology Transfer, Intellectual Property, and Innovation* (Nov. 20, 2018).

have pressured foreign companies seeking to participate in the standards-setting process to license their technology or intellectual property on unfavorable terms.”⁷ This trend has been noted by other nations as well. *See Sisvel v. Haier Deutschland GmbH*, [BGH] [Federal Court of Justice] 36 KZR 36/17, 50, 101 (May 5, 2020) (Ger.) (observing that “Chinese authorities” had “forced” an owner of telecommunications SEPs “to grant preferential conditions” to “a state-owned Chinese company”).⁸ The power grab by the Wuhan court is in furtherance of these efforts by Chinese officials to dominate the legal adjudication of global FRAND disputes. The United States and this Court should not tolerate this intrusion upon the sovereignty of its courts.

Amici emphasize the need to defend the ability of U.S. courts to adjudicate disputes involving U.S. intellectual property and alleged infringement on U.S. soil. Otherwise, foreign nations will be able to control the development of, access to, and value of emerging technologies

⁷ U.S. Trade Representative, *2019 Report to Congress on China’s WTO Compliance* 36 (Mar. 2020), at https://ustr.gov/sites/default/files/2019_Report_on_China’s_WTO_Compliance.pdf.

⁸ An unofficial English translation of the German court’s decision is available here: <http://eplaw.org/wp-content/uploads/2020/07/DE-FCJ-Sisvel-v-Haier-English.pdf>.

in the United States. A foreign nation could, for example, decide that an invention covered by U.S. patents has low value, including in the United States, thereby facilitating the entry of companies from their country into the U.S. market to the disadvantage of U.S. patent holders. This would have far reaching implications as nations compete to develop the technologies of the future. The United States and its courts should not accept this intrusion upon the nation's sovereignty.

III. Conclusion

For the foregoing reasons, *Amici* respectfully ask this Court to affirm the district court's issuance of an anti-interference injunction sufficient to preserve the district court's jurisdiction to proceed with issues affecting U.S. patents and U.S. patent policy. *Amici* do not take a position on the particular scope of the injunction necessary.

Date: April 9, 2021

Respectfully submitted,

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**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITATIONS

Case Number: No. 21-1565

Short Case Caption: Ericsson Inc. v. Samsung Electronics Co., Ltd.

Instructions: When computing a word, line, or page count, you may exclude any items listed as exempted under Fed. R. App. P. 5(c), Fed. R. App. P. 21(d), Fed. R. App. P. 27(d)(2), Fed. R. App. P. 32(f), or Fed. Cir. R. 32(b)(2).

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Date: 04/09/2021

Signature: /s/ Matthew J. Dowd

Name: Matthew J. Dowd