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 1208 号之一

Min 01 Min Chu No.1208 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：王影，上海市方达（北京）律师事务所律师。

Attorney: Wang Ying, 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：宋永琛，上海市方达（北京）律师事务所律师。

Attorney: Song Yongchen, 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：钱冠笛，福建拓维律师事务所律师。

Attorney: Qian Guandi, 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：ZL201310491586.1)的侵权产品 iPhone6s，iPhone6s Plus，iPhone7，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：GB0953718000045 ），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 rights 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. ZL201310491586.1), 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. GB0953718000045)* 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：首先，高通公司向本院提交了涉案发明专利"计算装置中的活动的卡隐喻"（专利号:ZL201310491586.1）的专利登记薄副本，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。高通公司提供了第 36696 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。

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:

Firstly, the copy of patent register of the asserted invention patent "Card metaphor for activities in a computing device" (Patent No.: ZL201310491586.1) has proved that Qualcomm is the current patentee thereof. The aforementioned evidence has also proved that the asserted patent is currently valid. The *Examination Decision on Request for Invalidation No. 36696* submitted by Qualcomm proves that the asserted patent has been fully maintained valid in the invalidation procedure.

其次，高通公司向本院提交了下列公证书：（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,iPhone8 Plus 和 iPhone X 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 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 25、52、116、118、120、122、124 号《司法鉴定意见书》，证明 iPhone 6s，iPhone 6s Plus，iPhone 7，iPhone 7 Plus，iPhone 8，iPhone 8 Plus 和 iPhone X 采用的技术方案中的相应技术特征与高通公司的 ZL201310491586.1 的专利权利要求 1、17 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. 25, 52, 116, 118, 120, 122, 124, 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 17 in Qualcomm's patent ZL201310491586.1.

第四，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：GB0953718000045），承诺为高通公司的上述申请提供人民币 300，000，000 元的担保。

Fourth, Bank of China Fujian Prov. Branch has issued a *Letter of Guarantee (No. GB0953718000045)*, providing an injunction bond of RMB 300,000,000 for Qualcomm.

经查，高通公司持有的"计算装置中的活动的卡隐喻"（专利号：ZL201310491586.1）发明专利权利要求 1 为：1A.一种计算机系统；1B.上述计算机系统包括：处理器；1C.上述计算机系统包括：触敏显示屏幕，其耦合到所述处理器，所述处理器接收所述触敏显示屏幕上的手势输入并且在至少两个显示模式中的任何一个显示模式下操作所述计算机系统；1D.其中：在给定的持续时间期间，所述处理器同时地操作至少第一应用程序和第二应用程序；1E.在全屏模式下，所述处理器在所述触敏显示屏幕上提供针对所述至少第一应用程序或第二应用程序中的仅一个应用程序的用户界面；1F.在窗口模式下，所述处理器：在所述触敏显示屏幕上提供对应于所述第一应用程序的第一卡以及提供第二卡的第一部分，使得所述第二卡的第二部分在所述触敏显示屏幕上不可见，所述第二卡对应于所述第二应用程序，其中至少所述第一卡显示来自所述第一应用程序的操作的内容，所述内容对应于：（i）来自应用程序的输出，（ii）任务，（iii）消息，（iv）文档或（v)网页；1G.在窗口模式下，通过改变所述第一卡在第一方向上相对于所述触敏显示屏幕的位置来对在所述触敏显示屏幕上沿着所述第一方向的定向接触进行响应；以及对在所述触敏显示屏幕上沿着与所述第一方向不同的第二方向移动所述第一卡或所述第二卡的定向接触进行响应，这通过如下来进行：（i）基于沿着所述第二方向的定向接触来将所述第一卡或第二卡中之一标识为被选择，以及；1H.在窗口模式下，（ii）在所述第二方向上将所选择的第一卡或第二卡从所述触敏显示屏幕上

解散，使得相对应的第一应用程序或第二应用程序被关闭；1I.其中，响应于接收用户输入，所述处理器将所述计算机系统进行至少如下转换：（i)从所述全屏模式转换到所述窗口模式，或（ii）从所述窗口模式转换到所述全屏模式。

After investigation, Qualcomm owns the invention patent *Card Metaphor for Activities in a Computing Device* (Patent No. ZL201310491586.1), of which Claim 1 reads as follows: 1A. A computer system; 1B. Said computer system comprising: a processor; 1C. Said computer system comprising: a touch-sensitive display screen coupled to the processor, the processor to receive gesture input on the touch-sensitive display screen and operate the computer system in any one of at least two display modes; 1D. wherein: during a given duration, the processor operates at least a first application and a second application concurrently; 1E. in a full-screen mode, the processor provides, on the touch-sensitive display screen, a user interface for only one of either the at least first application or the second application; 1F. in a windowed mode, the processor: provides on the touch-sensitive display screen, a first card corresponding to the first application, and a first portion of a second card so that a second portion of the second card is not visible on the touch-sensitive display screen, the second card corresponding to the second application, wherein at least the first card displays content from operation of the

first application, the content corresponding to (i) an output from an application, (ii) a task, (iii) a message, (iv) a document, or (v) a web page; 1G. in a windowed mode, responds to a directional contact along a first direction on the touch-sensitive display screen by changing a position of the first card relative to the touch-sensitive display screen in the first direction; and responds to a directional contact of moving the first card or the second card along a second direction that is different than the first direction on the touch-sensitive display screen by (i) identifying one of the first card or second card as being selected based on the directional contact along the second direction, and; 1H. in a windowed mode, dismissing the selected first card or second card from the touch-sensitive display screen in the second direction so that the corresponding first application or second application is closed; 1I. wherein the processor, in response to receiving user input transitions the computer system at least (i) from the full-screen mode to the windowed mode, or (ii) from the windowed mode to the full-screen mode.

权利要求 17 为：17A. 一种用于操作计算装置的系统；17B. 所述一种用于操作计算装置的系统包括：用于在全屏模式下操作所述计算装置的模块，其中在所述全屏模式下，针对第一应用程序或第二应用程序中的仅一个应用程序，用户界面被显示在触敏显示屏幕上；17C.用于当在所述全屏模式下操作所述计算装置时接收用户输

入的模块；18D.用于响应于接收所述用户输入从在所述全屏模式下操作所述计算装置转换到在窗口模式下操作所述计算装置的模块，其中在所述窗口模式下，（i）至少第一卡被显示在所述触敏显示屏幕上，所述第一卡对应于所述第一应用程序，以及（ii）第二卡的第一部分被显示在所述触敏显示屏幕上，使得所述第二卡的第二部分在所述触敏显示屏幕上不可见，所述第二卡对应于所述第二应用程序；17E 用于当在所述窗口模式下操作所述计算装置时通过改变所述第一卡在第一方向上相对于所述触敏显示屏幕的位置来对在所述触敏显示屏幕上沿着所述第一方向的定向接触进行响应的模块；17F.以及用于当在所述窗口模式下操作所述计算装置时对在所述触敏显示屏幕上沿着与所述第一方向不同的第二方向移动所述第一卡或所述第二卡的定向接触进行响应的模块，所述响应通过如下操作来进行：（i） 基于沿着所述第二方向的定向接触来将所述第一卡或第二卡中之一标识为被选择，以及（ii）在所述第二方向上将所选择的第一卡或第二卡从所述触敏显示屏幕上解散，使得相对应的第一应用程序或第二应用程序被退出。

Claim 17 reads as follows: 17A. A system for operating a computing device; 17B. Said system for operating a computing device comprising: means for operating the computing device in a full-screen mode, in which a user interface is displayed on a touch-sensitive display screen for only one of either the first application or the second application; 17C. Means for, while operating the computing device in

the full screen mode, receiving a user input; 17D. Means for, in response to receiving the user input, transitioning from operating the computing device in the full-screen mode to operating the computing device in a windowed mode in which (i) at least a first card is displayed on the touch-sensitive display screen, the first card corresponding to the first application, and (ii) a first portion of a second card is displayed on the touch-sensitive display screen so that a second portion of the second card is not visible on the touch-sensitive display screen, the second card corresponding to the second application; 17E. means for, while operating the computing device in the windowed mode, responding to a directional contact along a first direction on the touch-sensitive display screen by changing a position of the first card relative to the touch-sensitive display screen in the first direction; 17F. and means for, while operating the computing device in the windowed mode, responding to a directional contact of moving the first card or the second card along a second direction that is different than the first direction on the touch-sensitive display screen by (i) identifying one of the first card or second card as being selected based on the directional contact along the second direction, and (ii) dismissing the selected first card or second card from the touch-sensitive display screen in the second direction so that the corresponding first application or second application is exited.

通过对比权利要求 1，并操作 iPhone6s，iPhone6s Plus，iPhone7，iPhone7 Plus, iPhone8，iPhone8 Plus 和 iPhoneX 手机，可以明确上述涉嫌侵权产品存在以下技术特征：1a. 手机；1b.手机处理器；1c.触敏显示屏幕，其耦合到手机处理器，处理器接收触敏显示屏幕上的手势输入并且能够在全屏模式和窗口模式中的任何一个显示模式下操作该手机；1d. 在给定的持续时间期间，手机处理器同时地操作"播客"应用程序和"时钟"应用程序；1e.在全屏模式下，手机处理器在触敏显示屏幕上提供针对"播客"应用程序或"时钟"应用程序中的一个应用程序的界面；1f.在窗口模式下，手机处理器在触敏显示屏幕上提供对应于"播客"应用程序的第一卡以及提供对应于"时钟"应用程序的第二卡，第二卡在触敏显示屏幕上仅部分可见，其中，第一卡显示"播客"应用程序的操作任务和对应输出；1g.在窗口模式下，手机处理器通过改变"播客"卡在大致水平方向上相对于触敏显示屏幕的位置来对在触敏显示屏幕上沿着大致水平方向的定向接触进行响应；以及；1h.在窗口模式下，手机处理器对在触敏显示屏幕上沿着大体垂直向上的方向移动"播客"卡的定向接触进行响应，这通过如下来进行：（i）基于沿着大体垂直向上的方向的定向接触来将"播客"卡标示为被选择，以及（ii）在大体垂直向上的方向上使"播客"卡从触敏显示屏幕上解散，使得相对应的"播客"应用程序被关闭；1i.其中，响应于接收用户输入，手机处理器将手机进行如下转换：（i)从全屏模式转换到窗口模式，或（ii）从窗口模式转换到全屏模式。上述技术特征与权利要求 1 的相应技

术特征相同。

By comparing Claim 1 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 infringing products include the following technical features: 1a. Mobile phone; 1b. A mobile phone processor; 1c. A touch-sensitive display screen coupled to the mobile phone processor, the processor to receive gesture input on the touch-sensitive display screen and operate the mobile phone in any one of two display modes, the windowed mode and full-screen mode; 1d. During a given duration, the mobile phone processor operates the Podcasts App and the Timer App concurrently; 1e. In the full-screen mode, the mobile phone processor provides, on the touch-sensitive display screen, a user interface for only one of either the Podcasts App and the Timer App; 1f. In the windowed mode, the mobile phone processor provides, on the touch-sensitive display screen, a first card corresponding to the Podcasts App, and a second card corresponding to the Timer App. The second card is only partially visible on the touch-sensitive display screen. Wherein, the first card displays the operation task and corresponding output of the Podcasts App; 1g. In the windowed mode, the mobile phone processor responds to a directional contact along a generally horizontal direction by changing a position of the card corresponding to the Podcasts App with respect to the touch-sensitive

display screen in the generally horizontal direction. 1h. In the windowed mode, the mobile phone processor responds a directional contact of moving the card corresponding to the Podcasts App along a generally vertical upward direction on the touch-sensitive display screen by (i) identifying the card corresponding to the Podcasts App as being selected based on the directional contact along the generally vertical upward direction, and (ii) dismissing the card corresponding to the Podcasts App from the touch-sensitive display screen in the generally vertical upward direction so that the corresponding Podcasts App is closed; 1i. Wherein the mobile phone processor, in response to receiving user input transitions the mobile phone (i) from the full-screen mode to the windowed mode, or (ii) from the windowed mode to the full-screen mode. The above technical features are same as the corresponding technical features of Claim 1.

通过对比权利要求 17，并操作 iPhone6s，iPhone6s Plus，iPhone7，iPhone7 Plus，iPhone8，iPhone8 Plus 和 iPhoneX 手机，可以明确上述涉嫌侵权产品存在以下技术特征：17a. 一种用于操作手机的系统，包括；17b.用于在全屏模式下操作手机的模块，其中，在全屏模式下，针对"播客"应用程序或"时钟"应用程序中的仅一个应用程序，用户界面被显示在触敏显示屏幕上；17c.用于当在全屏模式下操作手机时接收用户输入的模块；17d.用于响应于接收用户输入从在全屏模式下操作手机转换到在窗口模式下操作手机的模块，其

中在窗口模式下，（i）对应于"播客"应用程序的第一卡被显示在触敏显示屏幕上，（ii）对应于"时钟"应用程序的第二卡仅部分被显示在触敏显示屏幕上；17e.用于当在窗口模式下操作手机时，通过改变"播客"卡在大致水平方向上相对于触敏显示屏幕的位置来对在触敏显示屏幕上沿着大致水平方向的定向接触进行响应的模块；17f.用于当在窗口模式下操作手机时，对在触敏显示屏幕上沿着大体垂直向上的方向移动"播客"卡的定向接触进行响应的模块，这通过如下来进行：（i）基于沿着大体垂直向上的方向的定向接触来将"播客"卡标示为被选择，以及（ii）在大体垂直向上的方向上使"播客"卡从触敏显示屏幕上解散，使得"播客"应用程序被退出。上述技术特征与权利要求 17 的相应技术特征相同。

By comparing Claim 17 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: 17a. A system for operating a mobile phone, comprising; 17b. Means for operating the mobile phone in a full-screen mode, in which a user interface is displayed on a touch-sensitive display screen for only one of either the Podcasts App and the Timer App; 17c. Means for, while operating the mobile phone in the full screen mode, receiving a user input; 17d. Means for, in response to receiving the user input, transitioning from operating the mobile phone in the full-screen mode to operating the mobile phone in a windowed mode, in

which (i) a first card corresponding to the Podcasts App is displayed on the touch-sensitive display screen, and (ii) a second card corresponding to the Timer App is only partially displayed on the touch-sensitive display screen; 17e. Means for, while operating the mobile phone in the windowed mode, responding to a directional contact along a generally horizontal direction on the touch-sensitive display screen by changing a position of the card corresponding to the Podcasts App relative to the touch-sensitive display screen in the generally horizontal direction; 17f. Means for, while operating the mobile phone in the windowed mode, responding to a directional contact of moving the card corresponding to the Podcasts App along a generally vertical upward direction on the touch-sensitive display screen by (i) identifying the card corresponding to the Podcasts App as being selected based on the directional contact along the generally vertical upward direction, and (ii) dismissing the selected card corresponding to the Podcasts App from the touch-sensitive display screen in the generally vertical upward direction so that the corresponding Podcasts App is exited. The above technical features are the same as the corresponding technical features of Claim 17.

　　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：ZL201310491586.1）的产品 iPhone6s，iPhone6s Plus，iPhone7，iPhone7 Plus，iPhone8，iPhone8 Plus 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侵权产品。

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. ZL201310491586.1), 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 with the commission of Apple Inc., which means that the accused products exclude the products manufactured by Pegatron Corporation.

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：ZL201310491586.1）的侵权产品 iPhone6s，iPhone6s Plus，iPhone7，iPhone7 Plus，iPhone8，iPhone8 Plus 和 iPhone X (不包含由和硕联合科技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. ZL201310491586.1), 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);

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 iPhone 6s，iPhone 6s Plus，iPhone 7，iPhone 7 Plus，iPhone 8，iPhone 8 Plus 和 iPhone X（不包含由和硕联合科技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 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 iPhone 6s，iPhone 6s Plus，iPhone 7，iPhone 7 Plus，iPhone 8，iPhone 8 Plus 和 iPhone X （不包含由和硕联合科技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);

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 iPhone 6s，iPhone 6s Plus，iPhone 7，iPhone 7 Plus，iPhone 8，iPhone 8 Plus 和 iPhone X (不包含由和硕联合科技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).

案件申请费 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 　 筝

审 判 员 　 徐 　 方

二〇一八年十一月三十日

Presiding Judge　Lin　Lijuan

Judge　　Pan　Zheng

Judge　　　Xu　Fang

Seal　of　Fuzhou　Intermediate　People's　Court

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: Provisions Cited by the Court

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 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.

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。

When a people's court adopts any preservation measure, it may order the applicant to provide security; where the party refuses to provide such security, the court shall reject 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。

When a people's court receives an application for preservation in an emergency, it shall decide within 48 hours after the receipt of the application; if the court accepts the application, such measures shall come into force 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 scope under the application or to the property related to the case in question.

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 on the Issues Concerning the Application of Law to Terminating Infringement upon Patent Prior to Litigation*

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 effectiveness of ruling to terminate patent infringement activities shall not be not expired until the final ruling legal instrument becomes effective. The people's court may also determine a specific period based on the specific situations of litigation; at the expiry of such period, the court can render a judgment

on continuing to terminate the related behavior at the request of the party concerned.

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.