Unofficial translation

Supreme People's Court of the People's Republic of China

Civil Ruling

(2026) Zui Gao Fa Zhi Min Zhong No. 416

Applicant: Samsung Electronics Co., Ltd. Domicile: Republic of Korea.

Representative: Han [X], Representative Director of the company.

Entrusted Litigation Agent: Xie Guanbin, lawyer at Lifang & Partners.

Entrusted Litigation Agent: Dong Fang, lawyer at Lifang & Partners.

Applicant: Samsung (China) Investment Co., Ltd. Domicile: Beijing Municipality, People's Republic of China.

Legal Representative: Li [X], Director and Manager of the company.

Entrusted Litigation Agent: Jiang Meng, lawyer at Lifang & Partners.

Entrusted Litigation Agent: Li Chun, lawyer at Lifang & Partners.

Respondent: ZTE Corporation. Domicile: Shenzhen Municipality, Guangdong Province, People's Republic of China.

Legal Representative: Xu [X], Executive Director and President of the company.

Entrusted Litigation Agent: Ni Zhenhua, lawyer at King & Wood Mallesons.

Entrusted Litigation Agent: Xu Jing, lawyer at King & Wood Mallesons.

In the course of this Court's hearing of the appeal case concerning a standard-essential patent licensing dispute between Appellants Samsung Electronics Co., Ltd. (hereinafter "Samsung Electronics"), Samsung (China) Investment Co., Ltd. (hereinafter "Samsung China"), and Samsung (China) Investment Co., Ltd. Chongqing Branch (hereinafter "Samsung Chongqing"), and Appellees ZTE Corporation (hereinafter "ZTE") and ZTE Corporation Chongqing Branch, Samsung Electronics and Samsung China filed an application for a conduct preservation order with this Court on September 1, 2026, requesting an order that Respondent ZTE immediately withdraw the application for a conduct preservation order that it filed with the Chongqing No. 1 Intermediate People's Court (hereinafter "Chongqing No. 1 Intermediate Court") in the second-instance proceedings of cases (2025) Yu 01 Min Chu Nos. 540 and 541 (hereinafter "Case No. 540" and "Case No. 541"), and that during the hearing of the present case and until a judgment is rendered, ZTE shall not take any action to interfere with the litigation proceedings of the present case, including but not limited to filing an application for a conduct preservation order or an application for advance execution with the Supreme People's Court in the second-instance proceedings for patent infringement.

Samsung Electronics and Samsung China applied, stating: (1) The present case meets the legal requirements for granting a conduct preservation order. First, the conduct preservation application by Samsung Electronics and Samsung China has a factual basis and legal grounds,

as there is an overlap in the scope of trial between the present case and the separate patent infringement litigation in which ZTE filed its application for a conduct preservation order. There is one standard-essential patent licensing dispute litigation and four standard-essential patent infringement dispute litigations between Samsung Electronics and Samsung China on the one hand and ZTE on the other in Chinese courts, all of which are being heard by the Chongqing No. 1 Intermediate Court. After the Chongqing No. 1 Intermediate Court rendered first-instance judgments in each of the aforesaid five disputes, Samsung Electronics, Samsung China, and their affiliate Samsung Chongqing have filed appeals. Among these, the standard-essential patent licensing dispute has entered second-instance proceedings at the Supreme People's Court, while the other four standard-essential patent infringement disputes are in the process of being transferred for appeal. During the period when the Supreme People's Court is hearing the standard-essential patent licensing dispute between the parties, ZTE suddenly filed an application for a conduct preservation order with the Chongqing No. 1 Intermediate Court on August 20, 2026, requesting an order that Samsung China immediately cease all acts of infringement of the patent rights held by ZTE. ZTE's application for a conduct preservation order is made with obvious malice, not only intending to obstruct or even nullify the second-instance hearing of the licensing dispute that is proceeding normally at the Supreme People's Court, but also attempting to exert pressure on Samsung Electronics and Samsung China by applying for a temporary injunction from the court to gain a negotiating advantage, which is a typical act of "patent holdup." Second, failure to grant the conduct preservation measure in this case will cause irreparable harm to the lawful rights and interests of Samsung Electronics and Samsung China, and will deprive Samsung Electronics and Samsung China of the litigation interest of requesting the Supreme People's Court to correct the first-instance judgment in this case. If the conduct preservation application by Samsung Electronics and Samsung China is not supported in this case, on the one hand, the products of Samsung Electronics and Samsung China in China will be excluded from the Chinese market due to a temporary injunction, which will directly lead to a complete halt of Samsung China's production and operations in China; on the other hand, Samsung Electronics, Samsung China, and Samsung Chongqing will likely be forced, under the pressure of the conduct preservation ruling made by the Chongqing No. 1 Intermediate Court upon ZTE's application, to accept the licensing terms determined by the first-instance judgment, which would render the appeal filed by Samsung Electronics, Samsung China, and Samsung Chongqing to the Supreme People's Court against the first-instance judgment in this case meaningless to continue. Third, the harm that would be caused to Samsung Electronics and Samsung China by not granting the conduct preservation measure in this case far exceeds the harm that would be caused to ZTE by granting it. The harm to Samsung Electronics and Samsung China if the conduct preservation measure is not granted in this case is as described above. In fact, as soon as the first-instance judgment in this case was published, it triggered widespread questions within the industry about the 5G cumulative licensing royalty rate determined by the judgment. The core root of the mutual lawsuits between the two parties in multiple locations worldwide this time lies in the huge disagreement between them on the determination of licensing fees. Even if the conduct preservation application filed by Samsung Electronics and Samsung China is supported, the interests of ZTE, which has previously made a commitment to license on fair, reasonable, and non-discriminatory ("FRAND") terms to the standards organization, can be fully compensated through the finally reached or determined licensing fees. However, if the conduct preservation application by Samsung Electronics and Samsung China is not supported, the harm caused to Samsung Electronics and Samsung China would obviously be

difficult to compensate for afterwards. Fourth, granting the conduct preservation measure in this case will not harm the public interest. On the one hand, the conduct preservation application by Samsung Electronics and Samsung China in this case only involves the interests between the two parties to this case; on the other hand, granting the conduct preservation measure in this case is not only conducive to clarifying the boundaries of the application of the legal system for conduct preservation, but also to building a good industry order for standard-essential patent licensing, and is also conducive to ensuring that the majority of implementers are protected from coercion by practices similar to the "patent holdup" adopted by ZTE in the future. Fifth, Samsung Electronics and Samsung China are willing to provide security for the conduct preservation application in this case. Considering that the substance of the dispute in this case is how to determine licensing terms that comply with FRAND principles, Samsung Electronics and Samsung China are willing to provide corresponding security in China to compensate for the losses that ZTE may suffer from the enforcement of the conduct preservation measure. (2) The present case is consistent with the judicial practice of the Supreme People's Court in granting conduct preservation orders in past cases. In past judicial practice, when a standard-essential patent holder's application to enforce a patent injunction or other such actions would improperly interfere with a standard-essential patent licensing fee case being heard by a Chinese court, Chinese courts at all levels, including the Supreme People's Court, have ruled in relevant cases that the standard-essential patent holder shall not implement the act of applying to enforce a patent injunction in relevant parallel litigation. ZTE's current application for a conduct preservation order, which is in the nature of a temporary injunction, filed with the Chongqing No. 1 Intermediate Court will inevitably cause improper interference with the present case currently being heard by the Supreme People's Court. Therefore, the conduct preservation application filed by Samsung Electronics and Samsung China in this case should be supported by analogy to the handling model of past cases in Chinese courts. (3) Failure to grant the conduct preservation measure in this case to stop the conduct preservation sought by ZTE in the Chongqing No. 1 Intermediate Court will have a significant adverse social impact. First, ZTE uses the appeal filed by Samsung Electronics and Samsung China to the Supreme People's Court against the first-instance judgment rendered by the Chongqing No. 1 Intermediate Court on the standard-essential patent licensing dispute between the parties as the main factual basis for its application for a conduct preservation order to the Chongqing No. 1 Intermediate Court. If the act of ZTE's application for a conduct preservation order is not stopped, it will seriously undermine the system of final adjudication at the second instance established by China's civil procedure. Second, if ZTE's aforesaid act of applying for a conduct preservation order is not stopped in this case, it will seriously damage China's business environment and good international image. Third, the Chongqing No. 1 Intermediate Court's imposition of liability to cease infringement in its judgment on the standard-essential patent infringement dispute between the parties has clear additional conditions, and there is no basis for the application of the conduct preservation application filed by ZTE in that case. With the standard-essential patent licensing dispute between the parties having already entered the second-instance procedure, for the Chongqing No. 1 Intermediate Court to handle ZTE's conduct preservation application during this period oversteps legal boundaries. Once the Chongqing No. 1 Intermediate Court supports ZTE's conduct preservation application and issues a temporary injunction against Samsung China, it essentially overturns its own handling opinion in the first-instance patent infringement judgment, which determined that Samsung China should bear the liability to cease infringement subject to conditions, granting ZTE relief far beyond

the first-instance judgment and creating a de facto "final adjudication at the first instance." Fourth, if ZTE's application for a conduct preservation order is not stopped, this improper practice may be emulated by other standard-essential patent holders, causing serious adverse effects on China's communication terminal industry.

ZTE argued in its defense: (1) The conduct preservation application filed by Samsung Electronics and Samsung China in this case does not fall within the scope of regulation under Article 103 of the Civil Procedure Law of the People's Republic of China (hereinafter the "Civil Procedure Law"). (2) The conduct preservation application filed by Samsung Electronics and Samsung China in substance deprives ZTE of its legitimate and lawful litigation rights, and the act of filing such an application is itself an unlawful act that does not comply with FRAND principles. (3) Samsung Electronics and Samsung China have adequate remedies with respect to the conduct preservation application filed by ZTE with the Chongqing No. 1 Intermediate Court. The Chongqing No. 1 Intermediate Court has scheduled an inquiry on September 16, 2026 regarding ZTE's conduct preservation application, and Samsung Electronics and Samsung China can fully present their opinions in that inquiry proceeding. Even if the Chongqing No. 1 Intermediate Court subsequently issues a conduct preservation ruling, Samsung Electronics and Samsung China can still apply to the Supreme People's Court for reconsideration. Therefore, it is entirely unnecessary for Samsung Electronics and Samsung China to apply to the Supreme People's Court for a conduct preservation order in the second-instance proceedings of the standard-essential patent licensing dispute in an attempt to suppress ZTE's conduct preservation application at its source. (4) If the Supreme People's Court supports the present conduct preservation application by Samsung Electronics and Samsung China, it will lead to significant negative consequences. On the one hand, during the period of transferring Cases No. 540 and 541 for appeal, such a practice would be tantamount to depriving the Chongqing No. 1 Intermediate Court, as the first-instance court in the patent infringement dispute, of its judicial review power over the conduct preservation application lawfully filed by the patentee ZTE, which would inevitably impact our country's civil procedure. On the other hand, it would inevitably trigger a "procedural race" between different courts within a single country, which would inevitably cause chaos in our country's judicial system. (5) To date, Samsung Electronics and Samsung China have never explicitly promised to accept and automatically perform the judgment of the Chinese courts on the licensing royalty rate in this case. On the one hand, they are using the rule in China's civil procedure that "a first-instance judgment does not take effect during the appeal period" to continue to delay payment of the licensing fees that should be paid to ZTE. On the other hand, they continue to use the appeal remedy channels for the licensing royalty rate case and the infringement cases to continuously carry out acts of infringement against ZTE's patent rights. The practices of Samsung Electronics and Samsung China already constitute a typical case of "patent reverse holdup." Samsung Electronics and Samsung China claim that if the Chongqing No. 1 Intermediate Court supports ZTE's application and imposes a conduct preservation measure against them, it will cause them irreparable harm. In ZTE's view, this is precisely the price they should pay for their long-term implementation of "patent reverse holdup" against ZTE.

Upon review, this Court has made the following preliminary findings of fact: With respect to the two cases of dispute over infringement of invention patent rights brought by ZTE against Samsung China [i.e., Case No. 540 and Case No. 541], the Chongqing No. 1 Intermediate Court rendered first-instance judgments on June 17 and June 18, 2026, respectively, finding

that the acts of manufacturing, offering for sale, selling, using, and importing patented products and using patented methods, as carried out by Samsung China without a license, constituted infringement of invention patent rights No. 201711311872.X and No. 201710056532.0 held by ZTE, and ordered Samsung China to immediately cease the infringing acts. After the first-instance judgments in the two cases were announced, Samsung China filed an appeal with this Court. As the relevant case file materials have not been fully received, this Court has not yet docketed the cases. On August 20, 2026, ZTE filed an application for a conduct preservation order with the Chongqing No. 1 Intermediate Court, requesting an order that Samsung China immediately cease infringing the patent rights of ZTE's patents No. 201711311872.X and No. 201710056532.0 by way of manufacturing, offering for sale, selling, using, and importing patented products and using patented methods; in this regard, the Chongqing No. 1 Intermediate Court has scheduled an inquiry with the parties on September 16, 2026.

This Court holds that the present case is a foreign-related case. The matter currently being handled is the procedural issue of an application for a conduct preservation order, and the law of the forum, i.e., the Civil Procedure Law of China, shall apply. Regarding the handling of applications for conduct preservation orders, Article 103, paragraph 1 of the Civil Procedure Law provides: "In a case where a judgment may become difficult to enforce or other harm may be caused to a party due to the conduct of the other party or for other reasons, a people's court may, upon the application of the opposing party, rule to preserve the property of that party, order it to perform a certain act, or prohibit it from performing a certain act; where no application has been filed by a party, the people's court may, when necessary, also rule to take preservation measures." Article 7 of the Provisions of the Supreme People's Court on Several Issues Concerning the Application of Law in the Review of Conduct Preservation Cases in Intellectual Property Disputes provides: "In reviewing an application for a conduct preservation order, a people's court shall comprehensively consider the following factors: (1) whether the applicant's request has a factual basis and legal grounds, including whether the validity of the intellectual property right for which protection is sought is stable; (2) whether failure to take a conduct preservation measure will cause irreparable harm to the applicant's lawful rights and interests or cause harm such as making the case ruling difficult to enforce; (3) whether the harm caused to the applicant by not taking a conduct preservation measure exceeds the harm caused to the respondent by taking a conduct preservation measure; (4) whether taking a conduct preservation measure will harm the public interest; and (5) other factors that should be considered."

The conduct preservation application filed by Samsung Electronics and Samsung China in the present case is directed against the conduct preservation application that ZTE has already filed with the Chongqing No. 1 Intermediate Court regarding the first-instance judgments in Case No. 540 and Case No. 541, and against the conduct preservation applications that they believe ZTE may take in the subsequent second-instance proceedings of those two cases, including filing a conduct preservation application or an application for advance execution with this Court. In substance, it is a reverse conduct preservation application with a procedurally counteractive and preventively consequential nature, directed at a party's litigation conduct in related cases between domestic courts. In this regard, this Court holds that, based on the factors to be considered in reviewing conduct preservation in intellectual property dispute cases under the aforesaid laws and judicial interpretations, the conduct preservation application filed by Samsung Electronics and Samsung China lacks a factual

basis, and even if their conduct preservation application in this case is not supported, it will not cause them irreparable harm or harm such as making the case ruling difficult to enforce. The specific analysis is as follows:

First, unlike in transnational parallel litigation, within the institutional framework of a single country with a uniformly applicable procedural law, it is entirely possible to coordinate and connect the procedural operations of related cases heard separately by different domestic courts or by the same court in accordance with national law, so as to ensure that the hearing of the relevant cases can proceed normally and orderly in accordance with the law. There is no procedural necessity for courts within a single country to issue reverse conduct preservation rulings with a procedurally counteractive and preventively consequential nature to ensure the hearing of a specific case. The courts hearing the present case, Case No. 540, and Case No. 541, as well as the court hearing the conduct preservation application filed by ZTE in Case No. 540 and Case No. 541, are all Chinese courts. Therefore, there is no procedural necessity to issue a reverse conduct preservation ruling in the present case against the litigation conduct that a party has already taken or may take in Case No. 540 and Case No. 541. In particular, the first-instance court for the present case and for Case No. 540 and Case No. 541 is the Chongqing No. 1 Intermediate Court, and the second-instance court is this Court. Furthermore, the court reviewing the conduct preservation application filed by ZTE in Case No. 540 and Case No. 541 is the Chongqing No. 1 Intermediate Court, and the court for reconsideration is also this Court. The disputes and issues involved in these related cases can ultimately be coordinated and handled by this Court in a unified manner in accordance with the law. This can not only achieve efficient connection of the hearing procedures of the relevant related cases, but more importantly, can ensure the effective uniformity in the application of law to the relevant applications and disputes of the parties. Therefore, the present case lacks the factual basis requiring a people's court to issue the said reverse conduct preservation ruling.

Second, the purpose of the conduct preservation application filed by Samsung Electronics and Samsung China in the present case is to counter the conduct preservation application filed by ZTE with the Chongqing No. 1 Intermediate Court. The core dispute between the parties is actually whether ZTE's conduct preservation application should be supported. In this regard, Samsung Electronics and Samsung China can fully raise their claims and express their opinions in the review proceedings of the Chongqing No. 1 Intermediate Court concerning ZTE's conduct preservation application. The Chongqing No. 1 Intermediate Court has also scheduled an inquiry with the parties in the near future and has allowed sufficient preparation time for both parties. Even if the Chongqing No. 1 Intermediate Court, after review, issues a conduct preservation ruling supporting ZTE's application, Samsung Electronics and Samsung China can subsequently apply to this Court for reconsideration. Regardless of whether ZTE's conduct preservation application should ultimately be supported, the people's court will make a judgment based on the statutory conditions and standards. In other words, Samsung Electronics and Samsung China can fully exercise their litigation rights in the review proceedings for ZTE's conduct preservation application, rather than seeking an alternative path and attempting to counter a conduct preservation application within the normal procedure with a counteractive and preventive reverse conduct preservation application. The present case lacks the substantive necessity for issuing the said reverse conduct preservation ruling. Therefore, even if the conduct preservation application filed by Samsung Electronics and Samsung China in this case is not

supported, it will not cause them irreparable harm or harm such as making the case ruling difficult to enforce.

In summary, the conduct preservation application of Samsung Electronics and Samsung China is not tenable and is hereby dismissed by this Court. In accordance with Article 103, paragraph 1, Article 111, and Article 157, paragraph 1, item (4) of the Civil Procedure Law of the People's Republic of China, and Article 7 of the Provisions of the Supreme People's Court on Several Issues Concerning the Application of Law in the Review of Conduct Preservation Cases in Intellectual Property Disputes, it is ruled as follows:

The application for a conduct preservation order filed by Samsung Electronics Co., Ltd. and Samsung (China) Investment Co., Ltd. is dismissed.

If dissatisfied with this ruling, a party may apply to this Court for one reconsideration within five days of receiving this ruling.

Presiding Judge Zhu Li

Judge Ou Hongwei

Judge Zhang Jing

September 14, 2026

Judge's Assistant Luo Suyun

Clerk Liu Yuechen

Clerk Zhou Jia