

**UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.**

In the Matter of

**CERTAIN PERSONAL COMPUTER/
CONSUMER ELECTRONIC
CONVERGENT DEVICES,
COMPONENTS THEREOF, AND
PRODUCTS CONTAINING SAME**

Investigation No. 337-TA-558

**NOTICE OF DECISION NOT TO REVIEW AN INITIAL DETERMINATION
GRANTING AN ADDITIONAL THREE MONTH STAY**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's ("ALJ") initial determination ("ID") granting a three month stay of this investigation.

FOR FURTHER INFORMATION CONTACT: Michelle Walters, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-5468. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: On December 29, 2005, the Commission instituted this investigation, based on a complaint filed by InterVideo Technology Corporation ("InterVideo") of Taiwan, alleging violations of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain personal computer/consumer electronic convergent devices, components thereof, and products containing the same by reason of infringement of

claims 1-10 of United States Patent No. 6,765,788 (“the ‘788 patent”). The complaint named four respondents: Dell, Inc. of Texas, WinBook Computer Corporation of Ohio (“WinBook”), Cyberlink Corporation of Taiwan, and Cyberlink.com Corporation of California. The ALJ issued an ID on April 20, 2006, terminating WinBook from the investigation on the basis of a settlement agreement.

More than a year prior to institution of this investigation, a third party, Daniel McClure, filed a petition for *ex parte* reexamination of the ‘788 patent with the United States Patent and Trademark Office (“USPTO”). The USPTO granted the petition and, on November 30, 2005, issued its first office action rejecting all ten claims as anticipated and/or obvious in light of various prior art references. InterVideo filed a response to the rejection on January 30, 2006, amending both independent claims, adding twelve new claims, and arguing the novelty and non-obviousness of the claims. On February 24, 2006, the examiner issued a final office action, rejecting all twenty-two claims as anticipated and/or obvious in light of various prior art references. On March 31, 2006, InterVideo filed a reply to the final office action, adding certain limitations previously discussed with the examiner. The examiner has not issued any further office actions or communications.

When the Commission instituted this investigation, it directed the ALJ to consider whether the investigation should be stayed in light of the reexamination of the ‘788 patent. On February 7, 2006, after receiving submissions from the parties and the Commission investigative attorney (“IA”), the ALJ issued an ID staying the investigation until April 19, 2006.

On April 21, 2006, the ALJ issued an ID staying the investigation for an additional three months, until July 19, 2006. In reaching his decision, the ALJ considered (1) the stage of discovery and the trial date, (2) the issues in question and trial of the case, (3) undue prejudice or clear tactical disadvantage to any party, (4) the stage of the USPTO proceeding, (5) the efficient use of Commission resources, and (6) the alternative remedies available in federal court; and he determined that each factor favors a stay. No petitions for review of this ID were filed.

Having examined the ALJ’s ID, the Commission has determined not to review the ALJ’s ID granting a stay of this investigation until July 19, 2006. Moreover, in accordance with the Commission’s notice of investigation, the ALJ properly determined to issue an ID on this matter.

The authority for the Commission’s determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and in section 210.42 of the Commission’s Rules of Practice and Procedure (19 C.F.R. § 210.42).

By order of the Commission.

/s/
Marilyn R. Abbott
Secretary to the Commission

Issued: May 12, 2006