

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

In the Matter of

**CERTAIN WIRELESS
COMMUNICATIONS DEVICES AND
COMPONENTS THEREOF**

Inv. No. 337-TA-675

NOTICE OF INVESTIGATION

AGENCY: U.S. International Trade Commission

ACTION: Institution of investigation pursuant to 19 U.S.C. § 1337

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on March 25, 2009, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, on behalf of SPH America, LLC of Vienna, Virginia. An amended complaint was filed on April 17, 2009. The complaint, as amended, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain wireless communications devices and components thereof by reason of infringement of certain claims of U.S. Patent Nos. RE 40,385 and 5,960,029. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue an exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is 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., Room 112, Washington, D.C. 20436, telephone 202-205-2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 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>.

FOR FURTHER INFORMATION CONTACT: Thomas S. Fusco, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205-2571.

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.10 (2009).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on April 28, 2009, ORDERED THAT –

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain wireless communications devices and components thereof that infringe one or more of claims 20-26, 31-33, 43, 48, 51, 53-55, 57-74, 76-80, 82-87, 89-225, and 227-287 of U.S. Patent No. RE 40,385 and claims 1-5 and 14-18 of U.S. Patent No. 5,960,029, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is –

SPH America, LLC
8133 Leesburg, Pike, Suite 640
Vienna, VA 22182

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Kyocera Corporation
6 Takeda Tobadono-cho, Fushimi-ku
Kyoto 612-8501
Japan

Kyocera Wireless Corporation
10300 Campus Point Drive
San Diego, CA 92121

Kyocera Sanyo Telecom, Inc.
2125 Burbank Boulevard, Suite 100
Woodland Hills, CA 91367

MetroPCS Communications, Inc.
2250 Lakeside Boulevard
Richardson, TX 75082

Metro PCS Wireless, Inc.
8144 Walnut Hill Lane, Suite 800
Dallas, TX 75231

Sprint Nextel Corporation
6200 Sprint Parkway
Overland Park, KS 66251

América Móvil, S.A.B. de C.V.
Lago Alberto 366
Colonia Anáhuac
Mexico D.F., C.P. 11320
Mexico

TracFone Wireless, Inc.
9700 NW 112th Avenue
Miami, FL 33178

Virgin Mobile USA, Inc.
10 Independent Boulevard
Warren, NJ 07059

(c) The Commission investigative attorney, party to this investigation, is Thomas S. Fusco, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Suite 401, Washington, D.C. 20436; and

(3) For the investigation so instituted, Paul J. Luckern, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.13. Pursuant to 19 C.F.R. §§ 201.16(d) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against a respondent.

By order of the Commission.

/s/

Marilyn R. Abbott
Secretary to the Commission

Issued: April 28, 2009