

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN PERSONAL COMPUTERS,
MOBILE DEVICES, DIGITAL MEDIA
PLAYERS, AND MICROCONSOLES**

Inv. No. 337-TA-1083

INSTITUTION OF INVESTIGATION

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

AGENCY: U.S. International Trade Commission

ACTION: Notice

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on October 10, 2017, under section 337 of the Tariff Act of 1930, as amended, on behalf of Aqua Connect, Inc. and Strategic Technology Partners, LLC, both of Orange, California. A letter supplementing the complaint and attaching supplemental exhibits was filed on November 2, 2017. A second supplemental letter requesting revision of the original caption was also filed on November 2, 2017. The complaint as supplemented 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 personal computers, mobile devices, digital media players, and microconsoles by reason of infringement of one or more claims of U.S. Patent No. RE46,386 (“the ‘386 patent”) and U.S. Patent No. 8,924,502 (“the ‘502 patent”). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute.

The complainants request that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and a cease and desist order.

A motion for temporary relief filed concurrently with the complaint requests that the Commission issue a temporary limited exclusion order and temporary cease and desist order prohibiting the importation into and the sale within the United States after importation of certain Mac computers running macOS 10.7 or above that infringe claims 1, 4, 9, and 27 of the ‘386 patent and 1, 4, 9, 27, 36, and 38 of the ‘502 patent during the course of the Commission’s investigation.

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: Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205-2560.

SUPPLEMENTARY INFORMATION:

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.10 (2017).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on November 14, 2017, 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 personal computers, mobile devices, digital media players, and microconsoles by reason of infringement of one or more of claims 1-4, 8-19, 21-29, and 31-35 of the '386 patent and 1-4, 8-19, 21-29, 31-36, and 38 of the '502 patent; and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.58 of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.58, the motion for temporary relief under subsection (e) of section 337 of the Tariff Act of 1930, which was filed with the complaint, is provisionally accepted and referred to the presiding administrative law judge for investigation;

(3) 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 complainants are:

Aqua Connect, Inc.
1815 E. Heim Ave., Suite 100
Orange, CA 92865

Strategic Technology Partners, LLC
1815 E. Heim Ave., Suite 100
Orange, CA 92865

(b) The respondent is the following entity alleged to be in violation of section 337, and is the party upon which the complaint is to be served:

Apple Inc.
1 Infinite Loop
Cupertino, CA 95014

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Suite 401, Washington, D.C. 20436; and

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge. Either the Chief Administrative Law Judge or the presiding Administrative Law Judge is authorized to designate the investigation as “more complicated” should either one so determine.

Responses to the complaint, the motion for temporary relief, and the notice of investigation must be submitted by the named respondent in accordance with sections 210.13 and 210.59 of the Commission’s Rules of Practice and Procedure, 19 C.F.R. 210.13 and 210.59. Pursuant to 19 C.F.R. 201.16 (e), 210.13(a), and 210.59, such responses will be considered by the Commission if received not later than 10 days after the date of service by the Commission of the complaint, the motion for temporary relief, and the notice of investigation if the investigation has not been declared “more complicated.” Extensions of time for submitting responses to the complaint, motion for temporary relief, and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of the respondent to file a timely response to each allegation in the complaint, in the motion for temporary relief, and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint, the motion for temporary relief, 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, the motion for temporary relief, 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 the respondent.

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: November 14, 2017