

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN CASES FOR PORTABLE
ELECTRONIC DEVICES**

**Investigation Nos. 337-TA-867/861
(Consolidated)**

**ISSUANCE OF GENERAL EXCLUSION ORDER; TERMINATION OF
INVESTIGATION**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to issue a general exclusion order (“GEO”) in this investigation. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Panyin A. Hughes, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3042. 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: The Commission instituted Inv. No. 337-TA-861 on November 16, 2012, based on a complaint filed by Speculative Product Design, LLC of Mountain View, California (“Speck”). 77 *Fed. Reg.* 68828 (Nov. 16, 2012). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, (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 cases for portable electronic devices by reason of infringement of various claims of United States Patent No. 8,204,561 (“the ’561 patent”). The complaint named several respondents.

The Commission instituted Inv. No. 337-TA-867 on January 31, 2013, based on a complaint filed by Speck. 78 *Fed. Reg.* 6834 (Jan. 31, 2013). That complaint also alleged 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 cases for portable electronic devices by reason of infringement of various claims of the '561 patent. The complaint named several additional respondents. On January 31, 2013, the Commission consolidated the two investigations. *Id.*

All of the respondents that participated in the investigation were terminated from the investigation. Specifically, respondents JWIN Electronics Corp., d/b/a iLuv of Port Washington, New York and Fellowes, Inc. of Itasca, Illinois were terminated from the investigation based upon settlement agreements. Respondents Project Horizon, Inc., d/b/a/ InMotion Entertainment of Jacksonville, Florida and En Jinn Industrial Co., Ltd. of New Taipei City, Taiwan were terminated from the investigation based upon consent order stipulations. Respondents Superior Communications, Inc. of Irwindale, California and Shengda Huanqiu Shijie of Shenzhen, China were terminated from the investigation based upon withdrawal of allegations pertaining to them from the complaint. Respondent Jie Sheng Technology of Tainan City, Taiwan was terminated from the investigation based upon amendment to the complaint and notice of investigation. Respondent Body Glove International, LLC of Redondo Beach, California was terminated from the investigation based upon a finding that it had committed no acts in violation of section 337.

The following respondents were found in default: Anbess Electronics Co. Ltd. of Shenzhen, China; ROCON Digital Technology Corp. of Shenzhen, China; Trait Technology (Shenzhen) Co., Ltd. of Shenzhen, China; Hongkong Wexun Ltd. of Guangdong, China; SW-Box.com (*aka* Cellphonezone Limited) of Sheung Wan, Hong Kong; and Global Digital Star Industry, Ltd. of Shenzhen City, China. Accordingly, the only parties remaining active in this investigation are Speck and the Commission investigative attorney ("IA").

On August 19, 2013, Speck filed a motion for summary determination that it has satisfied the domestic industry requirement under sections 337(a)(3)(A), (B), and (C) (not including licensing). On August 19, 2013, the IA filed a response in support of Speck's motion that it has satisfied the domestic industry requirement under section 337(a)(3)(C). On September 10, 2013, the ALJ issued an ID (Order No 15) granting Speck's motion in part. Specifically, the ALJ found that Speck established a domestic industry for the '561 patent under section 337(a)(3)(C). On October 23, 2013, the Commission determined not to review the ID.

On September 30, 2013, the ALJ granted a motion by Speck to terminate the investigation as to claims 1-3, 6-8, 10, and 12-16 of the '561 patent. On November 11, 2013, the Commission determined not to review. Thus, claims 4, 5, 9, and 11 remain pending in the investigation.

On November 15, 2013, Speck filed a motion for summary determination of violation with respect to the defaulting respondents. On November 26, 2013, the IA filed a response in support of Speck's motion. On February 21, 2014, the presiding ALJ issued his final initial determination on violation and recommendation on remedy ("ID/RD"), Order No. 28, granting the motion. The ALJ recommended issuance of a general exclusion order and the imposition of a bond of 100 percent of entered value during the period of Presidential review. On April 8, 2014, the Commission issued notice of its determination not to review the ALJ's final determination on violation. *79 Fed. Reg.* 20228-30 (Apr. 11, 2014).

The Commission has determined that the appropriate form of relief is a GEO under 19 U.S.C. § 1337(d)(2), prohibiting the unlicensed entry of cases for portable electronic devices covered by one or more claims 4, 5, 9, and 11 of U.S. Patent No. 8,204,561 (“the ’561 patent”).

The Commission has further determined that the public interest factors enumerated in section 337(d)(1) (19 U.S.C. §§ 1337(d)(1)) do not preclude issuance of the GEO. The Commission has determined that the bond for temporary importation during the period of Presidential review (19 U.S.C. § 1337(j)) shall be in the amount of 100 percent of the entered value of the imported articles that are subject to the order. The Commission’s orders were delivered to the President and the United States Trade Representative on the day of their issuance.

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 Part 210 of the Commission’s Rules of Practice and Procedure (19 C.F.R. Part 210).

By order of the Commission.

A handwritten signature in black ink, appearing to read "Lisa R. Barton", is positioned above the printed name and title.

Lisa R. Barton
Secretary to the Commission

Issued: June 20, 2014