

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN ELECTRONIC DEVICES,
INCLUDING WIRELESS
COMMUNICATION DEVICES,
COMPUTERS, TABLET COMPUTERS,
DIGITAL MEDIA PLAYERS, AND
CAMERAS**

Investigation No. 337-TA-952

**NOTICE OF COMMISSION DETERMINATION TO REVIEW AN INITIAL
DETERMINATION GRANTING A JOINT MOTION TO TERMINATE THE
INVESTIGATION ON THE BASIS OF SETTLEMENT**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review the presiding administrative law judge's (ALJ) initial determination (ID) (Order No. 52) granting a joint motion to terminate the above-referenced investigation on the basis of a settlement, license, or other agreement.

FOR FURTHER INFORMATION, CONTACT: Ron Traud, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, (202) 205-3427. 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, (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 this investigation on April 3, 2015, based on a complaint filed by Ericsson Inc. of Plano, Texas and Telefonaktiebolaget LM Ericsson of Sweden (collectively, "Ericsson"). The complaint 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 electronic devices, including wireless communication devices, computers, tablet computers, digital media players, and cameras by reason of infringement of certain claims of U.S. Patent Nos. 6,633,550; 6,157,620; 6,029,052;

8,812,059; 6,291,966; and 6,122,263. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337. The Commission's Notice of Investigation names Apple Inc. of Cupertino, California (Apple) as respondent and also names the Office of Unfair Import Investigations (OUII) as a party.

On December 29, 2015, Ericsson and Apple (collectively, "the parties") filed a joint motion to terminate the investigation pursuant to Commission Rule 210.21(b) on the basis of a settlement. However, the parties did not submit a copy of the Global Patent License settlement agreement (the Agreement), as required by Commission Rule 201.21(b)(1).

On January 8, 2016, the parties filed an amended joint motion to terminate the investigation pursuant to Commission Rule 210.21(a) on the basis of the withdrawal of the complaint, despite the existence of the Agreement. On January 12, the ALJ issued Order No. 51, denying the motion on the grounds that the parties failed to provide a copy of the Agreement. *See* Order No. 51 at 1 (Jan. 12, 2016).

On February 1, 2016, Ericsson and Apple filed a second amended joint motion to terminate the investigation in view of a settlement agreement. The motion included a confidential, un-redacted copy of the Agreement and a public, redacted copy of the Agreement. The motion indicated that the Agreement was also filed in Investigation No. 337-TA-953 (the 953 investigation) along with a motion to terminate that investigation.

On February 3, 2016, the administrative law judge presiding in the 953 investigation denied the motion to terminate that investigation on grounds that the public version of the Agreement is over-redacted. *See Certain Wireless Standard Compliant Electronic Devices, Including Communication Devices and Tablet Computers*, 337-TA-953, Order No. 45 (Feb. 3, 2016). The parties in the 953 investigation filed a petition for interlocutory Commission review of that administrative law judge's confidentiality determinations pursuant to Commission Rules 210.24(b)(2)-(3) and 210.5(e).

On March 9, 2016, the ALJ in the instant investigation issued the subject ID (Order No. 52) granting the parties' motion to terminate the investigation. The subject ID declared that the parties should file another public version of the Agreement in accordance with the administrative law judge's ruling in the 953 investigation, as affirmed or modified by the Commission. No petitions for review of the subject ID were filed.

Because the Agreement is the basis for terminating both the instant investigation and the 953 investigation and because the parties petitioned for Commission review of the administrative law judge's confidentiality determinations in the 953 investigation, the Commission has determined to review the subject ID. The Commission will make its determination on review once it rules on the pending petition for interlocutory review in the 953 investigation.

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 CFR part 210).

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', written in a cursive style.

Lisa R. Barton
Secretary to the Commission

Issued: April 8, 2016