

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

**CERTAIN MOBILE PHONES, TABLET
COMPUTERS, SMART WATCHES, SMART
SPEAKERS, AND DIGITAL MEDIA PLAYERS,
AND PRODUCTS CONTAINING SAME**

Investigation No. 337-TA-1300

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW
AN INITIAL DETERMINATION TERMINATING THE INVESTIGATION BASED
ON SETTLEMENT AND TO VACATE AS MOOT AN INITIAL DETERMINATION
GRANTING SUMMARY DETERMINATION THAT THE ECONOMIC PRONG
OF THE DOMESTIC INDUSTRY REQUIREMENT IS SATISFIED;
TERMINATION OF THE INVESTIGATION**

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 an initial determination (“ID”) (Order No. 34) of the presiding Administrative Law Judge (“ALJ”) terminating the investigation based on settlement. In addition, the Commission has determined to vacate as moot an ID (Order No. 29) granting summary determination that the economic prong of the domestic industry requirement is satisfied. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Houda Morad, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708-4716. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.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 February 24, 2022, the Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (“section 337”), based on a complaint filed by Ericsson Inc. of Plano, Texas, and Telefonaktiebolaget LM Ericsson of Stockholm, Sweden (collectively, “Ericsson”). *See* 87 FR 10385-86 (Feb. 24, 2022). The complaint, as supplemented, alleges a violation 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 mobile phones, tablet computers, smart watches, smart speakers, and

digital media players, and products containing same by reason of infringement of certain claims of U.S. Patent Nos. 7,151,430 (“the ’430 patent”); 9,509,273 (“the ’273 patent”); 9,853,621 (“the ’621 patent”); 7,957,770 (“the ’770 patent”); and 9,705,400 (“the ’400 patent”) (collectively, “Asserted Patents”). *See id.* The notice of investigation names Apple, Inc. (“Apple”) of Cupertino, California, as the respondent in the investigation. *See id.* The Office of Unfair Import Investigations (“OUII”) is also a party to the investigation. *See id.*

On December 16, 2022, the Commission partially terminated the investigation as to: (1) all asserted claims of the ’400 patent; (2) all asserted claims of the ’621 patent; (3) claims 11 and 12 of the ’430 patent; (4) claims 1 and 7 of the ’273 patent; and (5) claims 4, 8-10, 12, 15, and 16 of the ’770 patent based on withdrawal of the complaint as to those patents and claims. *See Order No. 25 (Nov. 21, 2022), unreviewed by Comm’n Notice (Dec. 16, 2022).*

On July 26, 2022, Ericsson filed a motion for summary determination that the economic prong of the domestic industry requirement is satisfied for each of the Asserted Patents (“Ericsson’s SD Motion”). On August 4, 2022, Apple filed a response to Ericsson’s SD Motion stating that Apple does not dispute Ericsson’s SD Motion to the extent it relates to the economic prong of the domestic industry requirement but that Apple disputes that Ericsson has satisfied the technical prong of the domestic industry requirement.

On November 30, 2022, the ALJ issued an ID (Order No. 29) granting summary determination that Ericsson satisfies the economic prong of the domestic industry requirement. On March 2, 2023, the Commission issued a notice extending until March 24, 2023, the deadline for determining whether to review the ID (Order No. 29).

On February 6, 2023, Ericsson and Apple jointly moved to terminate the investigation in its entirety based on settlement. On February 7, 2023, OUII filed a response in support of the joint motion.

On February 22, 2023, the ALJ issued an ID (Order No. 34) granting the joint motion to terminate the investigation. The ID finds that the joint motion complies with Commission Rule 210.21(b)(1), 19 CFR 210.21(b)(1). *See ID at 3.* Specifically, the ID notes that the joint motion includes confidential and public copies of the settlement agreement. *See id.* In addition, the motion states that “[t]here are no other agreements, written or oral, express or implied between the Ericsson and Apple concerning the subject matter of this Investigation.” *See id.* Furthermore, in accordance with Commission Rule 210.50(b)(2), 19 CFR 210.50(b)(2), the ID finds that “terminating this Investigation is in the public interest and will conserve public and private resources.” *See id.*

No petitions for review of the subject IDs (Order Nos. 29 and 34) were filed.

The Commission has determined not to review the ID terminating the investigation based on settlement (Order No. 34). In addition, the Commission has determined to vacate as moot the ID (Order No. 29) granting summary determination that the economic prong of the domestic industry requirement is satisfied. The investigation is terminated.

The Commission's vote for these determinations took place on March 22, 2023.

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: March 22, 2023