

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN ELECTRONIC DEVICES,
INCLUDING MOBILE PHONES,
TABLETS, LAPTOPS, COMPONENTS
THEREOF, AND PRODUCTS
CONTAINING THE SAME**

Investigation No. 337-TA-1376

**NOTICE OF COMMISSION DETERMINATION TO REVIEW IN PART AND, ON
REVIEW, AFFIRM A FINAL INITIAL DETERMINATION FINDING NO VIOLATION;
TERMINATION OF THE INVESTIGATION**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (“the Commission”) has determined to review in part a final initial determination (“FID”) issued by the presiding administrative law judge (“ALJ”) finding no violation of section 337. On review, the Commission affirms the determination of no violation. The investigation is hereby terminated.

FOR FURTHER INFORMATION CONTACT: Carl P. Bretscher, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, telephone (202) 205-2382. 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 November 17, 2023, the Commission instituted the present investigation based on a complaint, as supplemented, filed by Ericsson AB of Stockholm, Sweden and Telefonaktiebolaget LM Ericsson of Stockholm, Sweden (collectively “Ericsson”), alleging violations of section 337 of Tariff Act of 1930, as amended, 19 U.S.C. 1337 (“section 337”), due to the importation into the United States, sale for importation, or sale in the United States after importation of certain electronic devices, including mobile phones, tablets, laptops, components thereof, and products containing the same, that allegedly infringe one or more of the asserted claims of U.S. Patent Nos. 9,313,178 (“the ’178 patent”); 10,972,654 (“the ’654 patent”); 9,509,273 (“the ’273 patent”); 7,151,430 (“the ’430 patent”); and 11,122,313 (“the ’313 patent”). 88 FR 80337-338 (Nov. 17, 2023). The complaint alleges that a domestic

industry exists. *Id.* The notice of investigation names the following respondents: Motorola Mobility, LLC of Chicago, Illinois; Motorola (Wuhan) Mobility Technologies Communication Company Limited of Wuhan, China; Lenovo (United States) Inc. of Morrisville, North Carolina; Lenovo Group Limited of Hong Kong, SAR, China; Lenovo (Shanghai) Electronics Technology Co., Ltd. of Shanghai, China; Lenovo Beijing Co., Ltd. of Beijing, China; Lenovo PC HK Limited of Hong Kong, SAR, China; and Lenovo Information Products (Shenzhen) Co. Ltd. of Shenzhen, China (collectively, “Respondents”). *Id.* at 80337. The Office of Unfair Import Investigations is not a party to this investigation. *Id.*

The Commission subsequently terminated the investigation with respect to certain patents and patent claims that were withdrawn by the Ericsson. Order No. 29 (June 3, 2024), *unreviewed by* Comm’n Notice (June 25, 2024) (terminating the ’430 patent in its entirety, asserted claims 1-5 of the ’178 patent, and asserted claims 1-4 and 6 of the ’313 patent); Order No. 34 (July 15, 2024), *unreviewed by* Comm’n Notice (Aug. 6, 2024) (terminating all remaining claims of the ’313 patent, claim 18 of the ’178 patent, claims 9, 10, and 15 of the ’654 patent, and claims 1-3, 7-10, 12-14, and 16 of the ’273 patent); Order No. 39 (Aug. 9, 2024), *unreviewed by* Comm’n Notice (Sept. 9, 2024) (terminating all remaining claims of the ’273 patent).

On July 5, 2024, the Commission terminated the investigation with respect to respondent Lenovo Group Limited for good cause because it does not import into the United States, sell for importation, or sell in the United States after importation any accused products. Order No. 30 (June 20, 2024), *unreviewed by* Comm’n Notice (July 5, 2024).

On August 13, 2024, the Commission granted in part Ericsson’s unopposed motion for summary determination that it has satisfied the economic prong of the domestic industry requirement under section 337(a)(3)(A) with respect to the ’178 and ’654 patents. Order No. 32 (July 12, 2024), *unreviewed by* Comm’n Notice (Aug. 13, 2024).

On November 15, 2024, the presiding ALJ issued the subject FID, finding no violation of section 337 with respect to either the remaining ’178 patent or the ’654 patent. With regard to the ’178 patent, the FID finds that asserted claims 16 and 17 are not infringed and are invalid as obvious under 35 U.S.C. 103 (“section 103”), that no domestic industry product practices either claim, and that the economic prong of the domestic prong requirement would have been satisfied under 35 U.S.C. § 1337(a)(3)(B) (“section 337(a)(3)(B)”) but for the invalidity of the asserted claims. With regard to the ’654 patent, the FID finds that asserted claims 1, 3, and 16 are ineligible for patenting under 35 U.S.C. 101 (“section 101”), that claims 1 and 3 are invalid as anticipated under 35 U.S.C. 102, and that claims 1, 3, and 16 are invalid as obvious under section 103. The FID finds that, but for the invalidity of its claims, the ’654 patent would have been infringed and both the technical and economic prongs of the domestic industry requirement would have been satisfied under section 337(a)(3)(B). The FID rejects Respondents’ license defense.

On November 29, 2024, Respondents filed a contingent petition for review, arguing that if the Commission were to review the FID, it should also review: (i) the FID’s rejection of Respondents’ license defense; (ii) the FID’s narrow construction of the term “detect” recited in the asserted claims of the ’178 patent and its resultant rejection of certain obviousness defenses;

and (iii) the FID's narrow ordering of the claim steps in the '654 patent claims and its resultant rejection of certain anticipation arguments. Respondents did not petition for review of the FID's findings on non-infringement, patent ineligibility, or domestic industry. On December 9, 2024, Ericsson filed a response opposing Respondents' petition for review of the license defense, but it did not address any of the other issues raised by Respondents. Ericsson did not file a petition for Commission review of any findings in the FID.

Having reviewed the record of the investigation, including the FID, the parties' petitions for review and related submissions, the Commission has determined to review the FID in part as to the FID's finding that the asserted claims of the '654 patent are ineligible for patenting under section 101, that Ericsson has satisfied the economic prong of the domestic industry requirement under section 337(a)(3)(B), and concerning Respondents' licensing defense. On review, the Commission has determined to adopt the FID's findings, including its no-violation determination, with the exception that the Commission takes no position on whether the asserted claims of the '654 patent are ineligible under section 101, whether Ericsson has satisfied the economic prong of domestic industry requirement under section 337(a)(3)(B), or the FID's findings regarding Respondents' licensing defense. *See* 19 CFR 210.45(c); *Beloit Corp. v. Valmet Oy*, 742 F.2d 1421, 1423 (Fed. Cir. 1984). Additionally, the Commission has determined to reconsider, and on reconsideration, to vacate Order No. 32 and take no position on whether Ericsson has satisfied the economic prong of domestic industry under section 337(a)(3)(A). *See* 19 CFR 210.47; *Beloit*, 742 F.2d at 1423. The Commission notes that there can be no domestic industry if the asserted patent claims are either invalid or withdrawn. *See* Order No. 34 (July 15, 2024), *unreviewed by* Comm'n Notice (Aug. 6, 2024) (terminating investigation as to certain claims forming the basis or the grant of summary determination in Order No. 32).

The investigation is hereby terminated with a finding of no violation.

The Commission vote for this determination took place on January 16, 2025.

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.



Lisa R. Barton
Secretary to the Commission

Issued: January 16, 2025