



INTERNATIONAL TRADE COMMISSION

Investigation No. 337-TA-797

CERTAIN PORTABLE ELECTRONIC DEVICES AND RELATED SOFTWARE

DETERMINATION NOT TO REVIEW INITIAL DETERMINATION GRANTING MOTION TO AMEND THE COMPLAINT AND NOTICE OF 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 the presiding administrative law judge's ("ALJ") initial determination ("ID") (Order No. 19) granting Complainant's unopposed motion to amend the Complaint and Notice of Investigation.

FOR FURTHER INFORMATION CONTACT: Sidney A. Rosenzweig, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-2532. 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 this investigation on August 12, 2011, based on a complaint filed by Apple Inc. (“Apple”), alleging a violation of section 337 in the importation, sale for importation, and sale within the United States after importation of certain portable electronic devices and related software. *76 Fed. Reg.* 50253 (Aug. 12, 2011). The complaint alleged the infringement of claims of U.S. Patent Nos. 7,844,915; 7,469,381; 7,084,859; 7,920,129; and 6,956,564. The complaint named as respondents HTC Corp. of Taoyuan City, Taiwan and its subsidiaries HTC America, Inc. of Bellevue, Washington, and Exedea, Inc. of Houston, Texas. The complaint further alleged that an industry in the United States exists as required by subsection (a)(2) of section 337.

On October 7, 2011, Apple filed a motion seeking leave to amend the complaint and notice of investigation. In particular, Apple sought to: “(i) clarify its allegations with respect to asserted U.S. Patent No. 6,956,564 to reflect that it has been reissued subsequent to the institution of this Investigation as U.S. Patent No. RE42,738 E and add two new asserted claims from the reissued patent [claim nos. 4 and 37], (ii) amend the ‘Related Litigation’ section of the Complaint to reflect inadvertently omitted information, and (iii) identify additional accused products that had not been released at the time the original Complaint was filed [*i.e.*, the HTC Evo 3D, the HTC Evo View 4G, and the HTC Jetstream].” Order No. 19, at 1 (Dec. 2, 2011).

On December 2, 2011, the ALJ issued an ID granting Apple’s unopposed motion to amend the complaint and notice of investigation. *Id.* at 2-4. No petitions for review of the ID were filed.

The Commission has determined not to review the ID.

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 sections 210.14 and 210.42 of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.14, 210.42).

By order of the Commission.

James R. Holbein
Secretary to the Commission

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