



## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-994]

### Certain Portable Electronic Devices and Components Thereof

#### Institution of Investigation

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on March 24, 2016, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Creative Technology Ltd. of Singapore and Creative Labs, Inc. of Milpitas, California. A supplement was filed on April 13, 2016. The complaint, as supplemented, 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 portable electronic devices and components thereof by reason of infringement of certain claims of U.S. Patent No. 6,928,433 (“the ’433 patent”). The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainants request that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

**ADDRESSES:** The complaint, as supplemented, except for any confidential information contained therein, is 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., Room 112, Washington, D.C. 20436, telephone (202) 205-2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810. Persons with mobility impairments who will need special

assistance in gaining access to the Commission should contact the Office of the Secretary at (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>.

**FOR FURTHER INFORMATION CONTACT:** The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205-2560.

**AUTHORITY:** The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2015).

**SCOPE OF INVESTIGATION:** Having considered the complaint, the U.S. International Trade Commission, on May 5, 2016, **ORDERED THAT** –

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain portable electronic devices and components thereof by reason of infringement of one or more of claims 2, 3, 5, 7, and 17-28 of the '433 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to Commission Rule 210.50(b)(1), 19 CFR 210.50(b)(1), the presiding Administrative Law Judge shall take evidence or other information and hear arguments from the parties or other interested persons with respect to the public interest in this investigation, as appropriate, and provide the Commission with findings of fact and a recommended determination on this issue, which shall be limited to the statutory public interest factors set forth in 19 U.S.C. section 1337(d)(1), (f)(1), (g)(1);

(3) Notwithstanding any Commission Rules that would otherwise apply, the presiding Administrative Law Judge shall hold an early evidentiary hearing, find facts, and issue an early decision, as to whether the asserted claims of the '433 patent recite patent-eligible subject matter under 35 U.S.C. 101. Any such decision shall be in the form of an initial determination (ID). Petitions for review of such an ID shall be due five calendar days after service of the ID; any replies shall be due three business days after service of a petition. The ID will become the Commission's final determination 30 days after the date of service of the ID unless the Commission determines to review the ID. Any such review will be conducted in accordance with Commission Rules 210.43, 210.44, and 210.45, 19 CFR 210.43, 210.44, and 210.45. The Commission expects the issuance of an early ID relating to Section 101 within 100 days of institution, except that the presiding ALJ may grant a limited extension of the ID for good cause shown. The issuance of an early ID finding that the asserted claims of the '433 patent do not recite patent-eligible subject matter under 35 U.S.C. 101 shall stay the investigation unless the Commission orders otherwise; any other decision shall not stay the investigation or delay the issuance of a final ID covering the other issues of the investigation.

(4) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

Creative Technology Ltd.

31 International Business Park

#03-01 Creative Resource

Singapore 609921

Creative Labs, Inc.  
1901 McCarthy Boulevard  
Milpitas, CA 95035

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

ZTE Corporation  
ZTE Plaza  
No. 55 Hi-Tech Road South Hi-Tech Industrial  
Park  
Shenzen 518057  
Guangdong, China

ZTE (USA) Inc.  
2425 N. Central Expressway #323  
Richardson, TX 75080

Sony Corporation  
1-7-1 Konan, Minato-ku,  
Tokyo 108-0075, Japan

Sony Mobile Communications, Inc.  
W-building 1-8-15 Konan 1-chome  
Minato-ku  
Tokyo 108-0075, Japan

Sony Mobile Communications AB

(Mailing Address)

Sölvegatan 51,

223 62 Lund, Sweden

Sony Mobile Communications (USA), Inc.

3333 Piedmont Road NE #600

Atlanta, GA 30305

Samsung Electronics Co., Ltd.

1320-10, Seocho 2-dong Seocho-gu

Seoul, Republic of Korea

Samsung Electronics America, Inc.

85 Challenger Road

Ridgefield Park, NJ 07660

LG Electronics, Inc.

LG Twin Towers, 20 Yeouido-dong,

Yeongdeungpo-gu

Seoul 150-721, Republic of Korea

LG Electronics U.S.A., Inc.

1000 Sylvan Avenue

Englewood Cliffs, NJ 07632

LG Electronics Mobilecomm U.S.A., Inc.

10101 Old Grove Road

San Diego, CA 92131

Lenovo Group Ltd.

Shangdi Information Industry Base

No. 6 Chuang Ye Road, Haidan District

100085, Beijing, China

Lenovo (United States) Inc.

1009 Think Place

Morrisville, NC 27650

Motorola Mobility LLC

222 W. Merchandise Mart Plaza, Suite 1800

Chicago, IL 60654

HTC Corporation

23 Xinghua Road

Taoyuan 330, Taiwan

HTC America, Inc.

13920 SE Eastgate Way, Suite #200

Bellevue, WA 98005

Blackberry Ltd.

2200 University Avenue E

Waterloo, Ontario

Canada N2K 0A7

Blackberry Corporation

5000 Riverside Drive, Suite 100E

Irving, TX 75039

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Suite 401, Washington, D.C. 20436; and

(5) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting

responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: May 5, 2016.

Lisa R. Barton,

Secretary to the Commission.

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