



INTERNATIONAL TRADE COMMISSION

Investigation No. 337-TA-952

Certain Electronic Devices, Including Wireless Communication Devices, Computers, Tablet Computers, Digital Media Players, and Cameras

Commission Determination to Affirm an Initial Determination Granting a Joint Motion to Terminate the Investigation on the Basis of Settlement; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to affirm the 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 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: On April 3, 2015, the Commission instituted this investigation (the 952 investigation) based on a complaint filed by Ericsson Inc. of Plano, Texas and Telefonaktiebolaget LM Ericsson of Sweden (collectively, “Ericsson”). 80 *Fed. Reg.* 18254 (Apr. 3, 2015). The complaint alleged violations of 19 U.S.C. § 1337 (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. *Id.* at 18255. The Commission’s Notice of Investigation named Apple Inc. of Cupertino, California (Apple) as respondent and also named the Office of Unfair Import Investigations (OUII) as a party. *Id.*

On December 29, 2015, Ericsson and Apple (collectively, the private parties) filed a joint motion to terminate the investigation pursuant to Commission Rule 210.21(b) on the basis of a settlement. *See* Order No. 51 at 1 (Jan. 12, 2016). On January 12, the ALJ (Judge Shaw) denied the motion because the private parties failed to provide a copy of the Agreement. *See id.* On February 1, 2016, the private parties filed a second amended joint motion (the Joint Motion) to terminate the investigation in view of a settlement agreement. *See* Order 52 at 1 (Mar. 9, 2016) [hereinafter, the Subject ID]. The motion included both a confidential, un-redacted and a public, redacted copy of the settlement agreement (the Agreement). *Id.* at 2. The Agreement and a corresponding motion to terminate were also filed in Investigation No. 337-TA-953 (the 953 investigation). *Id.*

On February 3, 2016, the ALJ presiding in the 953 investigation (Judge Lord) denied the motion to terminate that investigation, reasoning that the public version of the Agreement was

over-redacted. *See id.* Pursuant to Commission Rules 210.24(b)(2)-(3) and 210.5(e), Ericsson filed a petition for interlocutory Commission review of only five of Judge Lord's confidentiality determinations. *See* Complainant Ericsson's Application for Commission Review of Certain Confidentiality Determinations in Order No. 45 (Feb. 11, 2016). Ericsson submitted with its appeal a revised, less-redacted public version of the Agreement (the Final Public Version). *Id.*

On March 9, 2016, Judge Shaw issued the Subject ID, which grants the Joint Motion. Subject ID, at 3. The Subject ID concludes that termination of the 952 investigation based on the private parties' settlement is in the public interest. *Id.* at 2. The Subject ID then declares that the private parties should file another public version of the Agreement in accordance with Judge Lord's ruling in the 953 investigation, as affirmed or modified by the Commission. *See id.* at 2-3. No petitions for review of the Subject ID were filed. On April 8, 2016, the Commission determined to review the Subject ID. Notice of Commission Determination to Review an Initial Determination Granting a Joint Motion to Terminate the Investigation on the Basis of Settlement, at 2 (Apr. 8, 2016).

On May 4, 2016, the Commission granted Ericsson's interlocutory appeal in the 953 investigation, reversed the ALJ on all five of the appealed confidentiality determinations, and remanded to the ALJ. Order Granting Appeal for Interlocutory Review of Order No. 45, Upon Review, Reversing, and Remanding to the Administrative Law Judge, at 3 (May 4, 2016).

On May 9, 2016, Ericsson filed with the Commission for purposes of the 952 investigation the Final Public Version. Letter to Secretary Lisa R. Barton enclosing Proposed Public Version of Parties' Global Patent License Agreement for Consideration in the Pending Initial Determination Terminating the Investigation Based on a Settlement Agreement (May 9, 2016).

The Commission hereby affirms the Subject ID, which grants the private parties' motion to terminate the 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 C.F.R. part 210).

By order of the Commission.

Issued: May 25, 2016

Lisa R. Barton

Secretary to the Commission

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