

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of)

CERTAIN 3G MOBILE HANDSETS AND)
COMPONENTS)

Investigation No. 337-TA-613

Notice To The Parties

The Final Initial and Recommended Determinations (ID) were filed on August 14, 2009.

Attached are the title page, conclusions of law and the order, which are not confidential and which form a portion of said determinations. For receiving said ID, see Commission rules 210.6 and 210.7. Counsel for complainants, respondents and the staff received a copy of this notice on August 14, 2009.



Paul J. Luckern
Chief Administrative Law Judge

Issued: August 14, 2009

PUBLIC VERSION

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

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CERTAIN 3G MOBILE HANDSETS AND)	Investigation No. 337-TA-613
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Final Initial and Recommended Determinations

This is the administrative law judge's Final Initial Determination under Commission rule 210.42. The administrative law judge, after a review of the record developed, finds inter alia that there is jurisdiction and that there is no violation of section 337 of the Tariff Act of 1930, as amended.

This is also the administrative law judge's Recommended Determination on remedy and bonding, pursuant to Commission rules 210.36(a) and 210.42(a)(1)(ii). Should the Commission find a violation, the administrative law judge recommends the issuance of a limited exclusion order barring entry into the United States of infringing 3G mobile handsets and components thereof as well as the issuance of appropriate cease and desist orders. The imposition of any bond during the Presidential Review period is not recommended.

CONCLUSIONS OF LAW

1. The Commission has in personam and in rem jurisdiction.
2. There has been an importation of accused 3G mobile handsets into the United States which are the subject of the unfair trade allegations.
3. The asserted claims of '004 the patent are not infringed.
4. The asserted claims of the '966 patent are not infringed.
5. The asserted claims of the '847 patent are not infringed.
6. The asserted claims of the '579 patent are not infringed.
7. A domestic industry exists with respect to the patents in issue.
8. The asserted claims of the '004 patent are not invalid.
9. The asserted claims of the '966 patent are not invalid.
10. The asserted claims of the '847 patent are not invalid.
11. The asserted claims of the '579 patent are not invalid.
12. There is no prosecution laches relating to the '004, '966 and '847 patents.
13. The '574 patent is enforceable.
14. There is no waiver and patent misuse with respect to the patents in issue.
15. The evidence establishes that there is no violation of section 337.
16. In the event a violation of section 337 is found, the evidence shows that the appropriate remedy barring entry of infringing 3G mobile

handsets and components thereof are a limited exclusion order, and
cease and desist orders.

17. There is no evidence to support the issuance of a bond in the
Presidential Review period.

ORDER

Based on the foregoing, and the record as a whole, it is the administrative law judge's Final Initial Determination that there is no violation of section 337 in the importation into the United States, sale for importation, and sale within the United States after importation of 3G mobile handsets and components thereof. It is also the administrative law judge's recommendation, should a violation be found, that a limited exclusion order issue barring entry into the United States of infringing 3G mobile handsets and components thereof and that appropriate cease and desist orders should issue.

The administrative law judge hereby CERTIFIES to the Commission his Final Initial and Recommended Determinations. Also ALJ exhibits ALJ-Ex. 1 to ALJ-Ex. 8 have been submitted to the Secretary for addition to the official record in this investigation. The briefs of the parties, filed with the Secretary, are not certified, since they are already in the Commission's possession in accordance with Commission rules.

Further it is ORDERED that:

1. In accordance with Commission rule 210.39, all material heretofore marked in camera because of business, financial and marketing data found by the administrative law judge to be cognizable as confidential business information under Commission rule 201.6(a), is to be given in camera treatment continuing after the date this investigation is terminated.

2. Counsel for the parties shall have in the hands of the administrative law judge those portions of the final initial and recommended determinations which contain bracketed confidential business information to be deleted from any public version of said determinations, no later than August 25, 2009. Any such bracketed version shall not be served via facsimile on the administrative law judge. If no such bracketed version is received from a party, it will mean that the party has no objection to removing the confidential status, in its entirety, from these initial and recommended determinations.

3. The initial determination portion of the Final Initial and Recommended Determinations, issued pursuant to Commission rules 210.42(a) and 210.42-46, shall become the determination of the Commission, unless the Commission, within that period, shall have ordered its review of certain issues therein or by order has changed the effective date of the initial determination portion. The recommended determination portion, issued pursuant to Commission rule 210.42(a)(1)(ii), will be considered by the Commission in reaching a determination on remedy pursuant to Commission rule 210.50(a).


Paul J. Luckern
Chief Administrative Law Judge

Issued: August 14, 2009