

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington D.C. 20436

In the Matter of

**CERTAIN SYSTEMS FOR DETECTING AND
REMOVING VIRUSES OR WORMS,
COMPONENTS THEREOF, AND PRODUCTS
CONTAINING SAME**

Inv. No. 337-TA-624

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW AN
INITIAL DETERMINATION GRANTING COMPLAINANT’S MOTION FOR
SUMMARY DETERMINATION THAT IT SATISFIES THE TECHNICAL PRONG OF
THE DOMESTIC INDUSTRY REQUIREMENT AS TO THE ASSERTED PATENT**

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 an initial determination (“ID”) (Order No. 18) of the presiding administrative law judge (“ALJ”) granting complainant’s motion for summary determination that it satisfies the technical prong of the domestic industry requirement as to the asserted patent.

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Esq., telephone 202-708-2310, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, D.C. 20436. Copies of all nonconfidential 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 SW., Washington, D.C. 20436, telephone 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<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 the matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on December 31, 2007, based on a complaint filed on November 21, 2007, by Trend Micro Incorporated (“Trend Micro”) of Cupertino, California. 72 Fed. Reg. 74329-30. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in the importation into the United States, the sale for importation, and the sale within the United States after

importation of certain systems for detecting and removing viruses or worms, components thereof, and products containing same by reason of infringement of claims 2 and 4-22 of U.S. Patent No. 5,623,600 (“the ‘600 patent”). The complaint named three respondents: Barracuda Networks, Inc. of Campbell, CA (“Barracuda”); Panda Software International S.L. of Spain; and Panda Distribution, Inc. of Glendale, CA (collectively “Panda”). The complaint further alleged that an industry in the United States exists as required by subsection (a)(2) of section 337.

On March 14, 2008, the Commission issued notice of its determination not to review an ID granting Trend Micro’s and Panda’s joint motion to terminate the investigation as to Panda on the basis of a settlement agreement. On July 11, 2008, the Commission issued notice of its determination not to review an ID granting Trend Micro’s motion to terminate the investigation in part on the basis of withdrawal of claims 2, 5-8, 12, 16-17, 20, and 22 of the ‘600 patent. On September 22, 2008, the Commission issue notice of its determination not to review an ID granting Trend Micro’s motion to terminate the investigation in part on the basis of the withdrawal of claims 14, and 18-19 of the ‘600 patent.

On June 30, 2008, complainant Trend Micro moved for summary determination that it satisfies the technical prong of the domestic industry requirement as to the ‘600 patent.

The ALJ issued the subject ID on September 22, 2008, granting Trend Micro’s motion. No party petitioned for review of the ID pursuant to 19 C.F.R. § 210.43(a), and the Commission found no basis for ordering a review on its own initiative pursuant to 19 C.F.R. § 210.44. 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 210.21(a) and 210.42(h)(3) of the Commission’s Rules of Practice and Procedure (19 C.F.R. §§ 210.21(a), 210.42(h)(3)).

By order of the Commission.

/s/
Marilyn R. Abbott
Secretary to the Commission

Issued: October 9, 2008