

**UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.**

In the Matter of

**CERTAIN COMMUNICATION
EQUIPMENT, COMPONENTS
THEREOF, AND PRODUCTS
CONTAINING THE SAME, INCLUDING
POWER OVER ETHERNET
TELEPHONES, SWITCHES, WIRELESS
ACCESS POINTS, ROUTERS AND
OTHER DEVICES USED IN LANS, AND
CAMERAS**

Investigation No. 337-TA-817

**NOTICE OF COMMISSION DETERMINATION TO REVIEW AND REVERSE AN
INITIAL DETERMINATION GRANTING THE OFFICE OF UNFAIR IMPORT
INVESTIGATIONS' UNOPPOSED MOTION TO AMEND THE 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 to review and reverse the presiding administrative law judge's ("ALJ") initial determination ("ID") (Order No. 3) granting the Office of Unfair Import Investigations' ("OUII") unopposed motion to amend the Notice of Investigation.

FOR FURTHER INFORMATION CONTACT: Amanda S. Pitcher, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2737. 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.

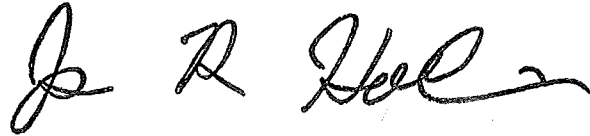
SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on December 7, 2011, based on a complaint filed by ChriMar Systems, Inc. d/b/a DMS Technologies of Farmington Hills, Michigan, alleging a violation of section 337 in the importation into the United States, the sale for importation and the sale within the United States after importation of certain communication equipment, components thereof, and products containing the same, including power over ethernet telephones, switches, wireless access points, routers and other devices used in LANs, and cameras. 76 Fed. Reg. 76,436-37 (Dec. 7, 2011). The complaint alleges infringement of certain claims of U.S. Patent No. 7,457,250 (“the ’250 patent”). The amended complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337. The named respondents are Cisco Systems, Inc. of San Jose, California; Cisco Consumer Products LLC of Irvine, California; Cisco Systems International B.V. of the Netherlands; Cisco-Linksys LLC of Irvine, California; Hewlett-Packard Co. of Palo Alto, California; 3Com Corporation, of Marlborough, Massachusetts; Avaya Inc. of Basking Ridge, New Jersey; and Extreme Networks, Inc. of Santa Clara, California.

On January 3, 2012, the ALJ issued an ID granting OUII’s unopposed motion to amend the Notice of Investigation. Order No. 3 at 1. OUII sought to add, in the “Scope of the Investigation” section, the underlined portion of the following language: “whether an industry in the United States exists or is in the process of being established as required by subsection(a)(2) of section 337.” *Id.* The ALJ explained that there is good cause to amend the Notice of Investigation because “the error was inadvertent and the investigation is still in its early stages.” *Id.* at 2. The ALJ also determined that the “amendment will not prejudice the public interest or any of the rights of the parties in the investigation.” *Id.* No petitions for review of the ID were filed.

The Commission has determined to review the ID because there are insufficient facts to support the ALJ’s determination that it was an inadvertent error to omit the phrase “or is in the process of being established” from the Notice of Investigation. On review, the Commission has determined that the complaint does not meet the requirement of Commission Rule 210.12(a)(6)(i) (19 C.F.R. § 210.12(a)(6)(i)) with respect to the allegation that a domestic industry is in the process of being established. The Commission reverses the ALJ’s ID without prejudice to the parties’ right to move to amend the complaint and Notice of Investigation in a timely manner. Any amendments to the complaint should provide a discussion of the facts supporting the allegation that there is a domestic industry that is in the process of being established as of the time of the complaint. *See, e.g., Certain Stringed Musical Instruments and Components Thereof*, Inv. No. 337-TA-586, Comm’n Op. at 13 (May 2008).

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 section 210.42(h) of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.42(h)).

By order of the Commission.

A handwritten signature in black ink, appearing to read "J R Holbein". The signature is written in a cursive, flowing style.

James R. Holbein
Secretary to the Commission

Issued: January 27, 2012