

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

In the Matter of

**CERTAIN ELECTRONIC DEVICES WITH
MULTI-TOUCH ENABLED TOUCHPADS
AND TOUCHSCREENS**

Investigation No. 337-TA-714

**NOTICE OF COMMISSION DETERMINATION TO REVIEW-IN-PART A FINAL
INITIAL DETERMINATION; TERMINATION OF INVESTIGATION WITH A
FINDING OF NO VIOLATION OF SECTION 337**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in-part the final initial determination (“ID”) issued by the presiding administrative law judge (“ALJ”) on April 29, 2011, finding no violation of section 337 in the above-captioned investigation. In particular, the Commission has determined to review and take no position on the ALJ’s finding that the “scanning” step of independent claim 1 requires a specific temporal order for elements (a) to (c) and his related finding of collateral estoppel. *See* Order No. 17 at 9-18 (Nov. 9, 2010); ID at 8-9; Order No. 16 (Sept. 28, 2010). The Commission has further determined to adopt the remainder of the ID to the extent it is not based on these claim construction rulings. The investigation is terminated with a finding that Apple did not violate section 337.

FOR FURTHER INFORMATION CONTACT: Daniel E. Valencia, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-1999. 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 April 29, 2010, based on a complaint filed by Elan Microelectronics Corporation of Taiwan (“Elan”), alleging a violation of section 337 in the importation, sale for importation, and sale within the United States after importation of certain electronic devices with multi-touch enabled touchpads and touchscreens by reason of infringement of certain claims of U.S. Patent No.

5,825,352 (“the ‘352 patent). 75 *Fed. Reg.* 22625. The complaint named Apple, Inc. of Cupertino, California (“Apple”) as the only respondent.

On April 29, 2011, the ALJ issued a final ID finding no violation of section 337. The ALJ concluded, among other things, that none of the accused products infringe the asserted claims of the ‘352 patent and that no domestic industry exists.

On May 16, 2011, complainant Elan filed a petition for review of the ALJ’s final ID. The same day, respondent Apple filed a contingent petition for review. On May 24, 2011, Elan, Apple, and the Commission investigative attorney responded to the petitions for review.

Having examined the record of this investigation, including the ALJ’s final ID and the submissions of the parties, the Commission has determined to review and take no position on the ALJ’s claim construction ruling that the “scanning” step of independent claim 1 requires a specific temporal order for elements (a) to (c), and his related finding of collateral estoppel. *See* Order No. 17 at 9-18 (Nov. 9, 2010); ID at 8-9; Order No. 16 (Sept. 28, 2010). The Commission has also determined to adopt the remainder of the ID to the extent it is not based on these claim construction rulings. The Commission had determined to terminate the investigation with a finding that Apple has not violated section 337.

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.

/s/
James R. Holbein
Secretary to the Commission

Issued: June 30, 2011