

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

In the Matter of

**CERTAIN DIGITAL IMAGING DEVICES
AND RELATED SOFTWARE**

Investigation No. 337-TA-717

**NOTICE OF COMMISSION DECISION NOT TO REVIEW THE ALJ's FINAL
INITIAL DETERMINATION FINDING NO VIOLATION OF SECTION 337;
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 not to review the presiding administrative law judge's ("ALJ") final initial determination ("ID") issued on May 12, 2011, finding no violation of section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337, in this investigation.

FOR FURTHER INFORMATION CONTACT: Panyin Hughes, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3042. 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 May 19, 2010, based on a complaint filed by Apple Inc. of Cupertino, California ("Apple"). *75 Fed. Reg.* 28058 (May 19, 2010). The complaint alleged 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 digital imaging devices and related software by reason of infringement of various claims of United States Patent Nos. 6,031,964 and RE 38,911. The complaint named Eastman Kodak Company of Rochester, New York ("Kodak") as respondent.

On May 12, 2011, the ALJ issued his final ID, finding no violation of section 337 by Kodak with respect to any of the asserted claims of the asserted patents. Specifically, the ALJ found that the accused products do not infringe the asserted claims of the '964 patent. The ALJ also found that none of the cited references rendered the asserted claims obvious, and that Kodak is not a co-owner of the patent. Regarding the '911 patent, the ALJ found that the accused products do not infringe its asserted claims. The ALJ also found that the prior art anticipates and invalidates the asserted claims and that Kodak is not a co-owner of the patent. The ALJ concluded that an industry exists within the United States that practices the '911 patent but that a domestic industry does not exist with respect to the '964 patent as required by 19 U.S.C. § 1337(a)(2).

On June 1, 2011, Apple filed a petition for review of the ALJ's findings related to the '964 patent. Apple did not petition for review of any of the ALJ's findings related to the '911 patent. On June 9, 2011, the Commission investigative attorney ("IA") and Kodak filed respective responses to Apple's petition for review. Neither the IA nor Kodak filed petitions or contingent petitions for review of the ID.

Having examined the record of this investigation, including the ALJ's final ID, the petition for review, and the responses thereto, the Commission has determined not to review the subject 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 210.42-46 of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.42-46).

By order of the Commission.

/s/
James R. Holbein
Secretary to the Commission

Issued: July 18, 2011