

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

In the Matter of

**CERTAIN 3G MOBILE HANDSETS
AND COMPONENTS THEREOF**

Investigation No. 337-TA-613

**NOTICE OF COMMISSION DETERMINATION TO REVIEW IN PART A FINAL
DETERMINATION FINDING NO VIOLATION OF SECTION 337 AND ON REVIEW
TO AFFIRM THE ADMINISTRATIVE LAW JUDGE'S DETERMINATION OF NO
VIOLATION; 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 to review in part the presiding administrative law judge's ("ALJ") final initial determination ("ID") issued on August 31, 2009, finding no violation of Section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in the above-captioned investigation. Specifically, the Commission has determined to review portions of the ALJ's claim construction and invalidity analysis, but to affirm the ALJ's determination of no violation, and has terminated the investigation.

FOR FURTHER INFORMATION CONTACT: Megan M. Valentine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-2301. 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 Inv. No. 337-TA-613 on September 11, 2007, based on a complaint filed by InterDigital Communications Corp. of King of Prussia, Pennsylvania and InterDigital Technology Corp. of Wilmington, Delaware (collectively, "InterDigital") on August 7, 2007. The complaint, as amended, 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 3G mobile handsets and components by reason of infringement of certain claims of U.S. Patent Nos. 7,117,004 ("the

'004 patent"); 7,190,966 ("the '966 patent"); and 7,286,847 ("the '847 patent") ("the Power Ramp-Up Patents); and 6,693,579 ("the '579 patent). The notice of investigation named Nokia Corporation of Finland and Nokia Inc. of Irving, Texas (collectively, "Nokia") as respondents.

On August 14, 2009, the ALJ issued his final ID, finding no violation of Section 337. In particular, he found that the asserted claims of the patents-in-suit are not infringed and that they are not invalid. The ALJ further found that a domestic industry exists with respect to the patents-in-suit. Additionally, the ALJ found that there is no prosecution laches relating to the '004, '966, and '847 patents and that the '579 patent is enforceable. The ALJ further found that there is no waiver and patent misuse with respect to the patents-in-suit. The ALJ also issued a Recommended Determination on remedy and bonding, recommending that, in the event a violation of Section 337 is found, the appropriate remedy is a limited exclusion order barring entry of infringing 3G mobile handsets and components thereof and that it would also be appropriate to issue various cease and desist orders. The ALJ also recommended that there is no evidence to support the issuance of a bond during the period of Presidential review.

On August 31, 2009, InterDigital filed a petition for review, challenging certain aspects of the final ID, and Nokia filed a contingent petition for review, challenging other aspects of the final ID. On September 8, 2009, Nokia filed a response to InterDigital's petition for review, and InterDigital filed a response to Nokia's contingent petition for review. The Commission investigative attorney filed a joint response to both InterDigital's and Nokia's petitions on September 8, 2009.

Having examined the record of this investigation, including the ALJ's final ID, the petitions for review, and the responses thereto, the Commission has determined to review the subject ID in part. Specifically, the Commission has determined to review the ALJ's claim construction of the terms "synchronize," found in claims 5, 6, 9, and 11 of the '847 patent, and "access signal," found in claim 59 of the '004 patent and claims 6, 9, and 11 of the '847 patent. The Commission has also determined to review the ALJ's validity determinations with respect to the four asserted patents. On review, we affirm the ALJ's determination of no violation, but take no position with regard to the term "synchronize" and validity.

In addition, the Commission modifies the ALJ's construction of "access signal" to clarify that his construction does not read out the situation where the "access signal" may continue to be transmitted after the power ramp-up procedure ends. The ID limits the transmission of the "access signal" to the power ramp-up procedure, finding the transmission does not continue during the remainder of the call setup process. The Commission agrees that the "access signal" is transmitted during the power ramp-up procedure and that the "access signal" is a separate transmission from any other call set up messages that a subscriber unit pursuant to the Power Ramp-Up Patents transmits to a base station during a communication event. The Commission finds, however, that the '004 and '847 patents do not require that the transmission of the "access signal" ends when the power ramp-up procedure ends.

The Commission has determined not to review the remaining issues decided in 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 section 210.42 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.42).

By order of the Commission.

/s/
Marilyn R. Abbott
Secretary to the Commission

Issued: October 16, 2009