

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

In the Matter of

**CERTAIN WIRELESS
COMMUNICATION DEVICES,
PORTABLE MUSIC AND DATA
PROCESSING DEVICES, COMPUTERS
AND COMPONENTS THEREOF**

Investigation No. 337-TA-745

**NOTICE OF COMMISSION DETERMINATION TO REVIEW, VACATE, AND
REMAND AN INITIAL DETERMINATION GRANTING COMPLAINANT'S MOTION
FOR SUMMARY DETERMINATION OF DOMESTIC INDUSTRY BASED ON
LICENSING**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review, vacate, and remand the presiding administrative law judge's ("ALJ") initial determination ("ID") (Order No. 19) granting complainant's motion for summary determination that its domestic licensing industry satisfies the domestic industry requirement of 19 U.S.C. § 1337(a)(3)(C) in Inv. No. 337-TA-745, *Certain Wireless Communication Devices, Portable Music and Data Processing Devices, Computers and Components Thereof*.

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 this investigation on November 8, 2010, based on a complaint filed by Motorola Mobility, Inc. of Libertyville, Illinois ("MMI"). 75 *Fed. Reg.* 68619-20 (Nov. 8, 2010). The complaint alleges violations of Section 337 of the Tariff Act of 1930, as amended, 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

wireless communication devices, portable music and data processing devices, computers and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 6,272,333; 6,246,862; 6,246,697; 5,359,317 (“the ‘317 patent”); 5,636,223; and 7,751,826. The complaint further alleges the existence of a domestic industry. The Commission’s notice of investigation named Apple Inc. of Cupertino, California (“Apple”) as respondent. The Commission determined not to review an ID terminating the investigation as to claim 1 of the ‘317 patent. Notice (June 28, 2011).

On May 25, 2011, MMI filed a motion for summary determination that its domestic activities, including those of its predecessor Motorola Inc., satisfy the domestic industry requirement. On June 6, 2011, the Commission Investigative attorney (“IA”) filed a response in support of MMI’s motion. The IA argued that MMI has offered sufficient evidence that it satisfies the domestic industry requirement based on its licensing activities. On June 6, 2011, Apple filed a response opposing the motion on the basis that there are genuine issues of material fact regarding whether MMI’s domestic investments satisfy Section 337(a)(3)(C). On June 14, 2011, MMI filed a motion for leave to file a reply to Apple’s opposition. The ALJ granted the motion for leave.

On June 22, 2011, the ALJ issued the subject ID, granting Motorola’s motion for summary determination that it satisfies the domestic industry requirement based on its licensing industry pursuant to Section 337 (a)(3)(C). On June 29, 2011, Apple filed a petition for review. On July 7, 2011, MMI filed a response. Also on July 7, 2011, the IA filed a response.

The Commission has determined to review and vacate the ID and to remand to the ALJ the issue of whether MMI has satisfied the domestic industry requirement in keeping with the Commission’s recent decision in *Certain Multimedia Display and Navigation Devices and Systems, Components Thereof, and Products Containing Same*, Inv. No. 337-TA-694, Comm’n Op. (July 1, 2011). The Commission’s reasoning is set forth in its confidential Order issued concurrently with this Notice.

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 210.43 of the Commission’s Rules of Practice and Procedure (19 C.F.R. § 210.43).

By order of the Commission.

/s/
James R. Holbein
Secretary to the Commission

Issued: July 22, 2011