

investigation as to the '279 patent. On October 31, 2005, the Commission determined not to review the ID.

On March 20, 2006, the ALJ issued his final ID and recommended determination on remedy and bonding. The ALJ concluded that there was a violation of section 337. Specifically, he found that claim 13 of the '187 patent was not invalid and was infringed by Actions' accused product families 207X, 208X, and 209X. The ALJ also determined that claims 1, 6, 9, and 13 of the '522 patent were not invalid and were infringed by Actions' accused product families 208X and 209X.

On May 5, 2006, the Commission determined to review the ALJ's construction of a claim limitation of the '522 patent, infringement of the '522 patent, and the ALJ's determination that SigmaTel met the technical prong of the domestic industry requirement in regard to the '522 patent. 71 FR 27512 (May 11, 2006). The Commission also determined to review the ALJ's claim construction of the term "memory" in claim 13 of the '187 patent and simultaneously to modify that construction by removing the apparently inadvertent inclusion of the word "firmware." *Id.* The Commission declined to review the remainder of the ID. *Id.* The Commission requested briefing on the issues under review and on remedy, the public interest, and bonding. *Id.* Briefs and responses on the issues under review and on remedy, the public interest, and bonding were filed by all parties in a timely manner.

On June 12, 2006, Actions filed a paper with the Commission titled "Actions' Identification of Erroneous Citations to the Evidentiary Record by SigmaTel and the Initial Determination that are Material to Remedy Issues" alleging that testimony regarding the size of memory typically used in MP3 players incorporating the accused chips was inaccurately portrayed by SigmaTel and the ALJ. SigmaTel filed an opposition on June 13, 2006, and the Commission investigative attorney ("IA") filed a response on June 15, 2006. SigmaTel filed another submission on the same subject on August 21, 2006. On August 24, 2006, Actions' filed a motion to strike SigmaTel's August 21, 2006, submission. Because the allegedly erroneous citations were not raised in Actions' petition for review, and were in fact expressly agreed to by Actions in response to SigmaTel's proposed findings of act, we do not consider Actions' arguments. Thus, SigmaTel's June 13, 2006, and August 21, 2006, submissions; the IA's June 15, 2006, submission; and Actions' August 24,

2006, submission have all be rendered moot and have not been considered.

On August 24, 2006, SigmaTel filed "Complainant SigmaTel, Inc.'s Motion for Leave to File a Short Brief to Correct an Error in Actions' Reply to SigmaTel's Comments on the ALJ's Remand Findings and Determination." Both Actions and the IA filed responses to SigmaTel's motion. We hereby deny this motion.

On review, the Commission construed the disputed claim phrase "produce the system clock control signal and power supply control signal based on a processing transfer characteristic of the computation engine" to mean that both the system clock control signal and the power supply control signal are required to be produced during operation of the integrated circuit such that the voltage and the frequency of the integrated circuit are adjusted based on a processing transfer characteristic, but that the processing transfer characteristic is not determined in any particular manner. 71 FR 36358-36358 (June 26, 2006). The Commission determined, with respect to the accused products that do not use the version 952436 firmware, that the ALJ made sufficient findings to find infringement of the asserted claims of the '522 patent under the Commission's claim construction, and adopted his findings with respect to those products. *Id.* The Commission determined that SigmaTel's products satisfy the technical prong of the domestic industry requirement with regard to the '522 patent under the Commission's claim construction. *Id.* The Commission remanded the investigation to the ALJ for the sole issue of determining whether Actions' products using the 952436 version firmware infringe the asserted claims of the '522 patent. The Commission deferred addressing issues relating to remedy, public interest, and bonding, for both the '187 patent and the '522 patent. *Id.*

The ALJ issued a remand initial determination ("Remand ID") on August 3, 2006, finding that Actions' accused products using the 952436 version firmware, other than the 2051, 2180, and PMA 300 models, do not infringe claims 1, 6, 9, and 13 of the '522 patent.

In its remand notice, the Commission invited comments from the parties addressing the ALJ's determination on remand (71 FR 36358 (June 26, 2006)). On August 11, 2006, SigmaTel filed non-responsive comments addressing the appropriate remedy, and Actions and the IA filed comments supporting the ALJ's determination on remand. On August 18, 2006, Actions and the IA each filed responses to SigmaTel's

comments, supporting the ALJ's determinations on remand and noting that SigmaTel's comments addressed only remedy issues. Because the Commission limited the parties' comments to the remand issue, it has disregarded SigmaTel's additional comments on remedy.

Having examined the record of this investigation, including the ALJ's final ID and Remand ID and the submissions of the parties, the Commission has determined (1) that there is a violation of section 337 by Actions with regard to claim 13 of the '187 patent; (2) that there is a violation of section 337 by Actions with regard to claims 1, 6, 9, and 13 of the '522 patent, except with respect to those products using the 952436 version firmware as noted in the ALJ's Remand ID; and (3) to issue a limited exclusion order with respect to Actions' infringing products. The Commission's order was delivered to the President and to the U.S. Trade Representative on the day of its issuance.

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 210.45, 210.49, and 210.50 of the Commission's Rules of Practice and Procedure (19 CFR 210.45, 210.49, and 210.50).

By order of the Commission.

Issued: September 15, 2006.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. 06-7794 Filed 9-19-06; 8:45 am]

BILLING CODE 7020-02-P

---

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on August 31, 2006, a proposed Consent Decree in *United States v. City of New Orleans, et al.*, Civil Action No. 02-3618, Section "E", was lodged with the United States District Court for the Eastern District of Louisiana.

In this action the United States, on behalf of the United States Environmental Protection Agency ("EPA"), sought to recover response costs from certain parties. EPA incurred such costs in response to releases and threatened releases of hazardous substances from the Agriculture Street Landfill (the "Site") located in New Orleans, Louisiana. The proposed Consent Decree requires BFI Waste Systems of North America, Inc. ("BFI"),

a third-party defendant, to pay \$335,000 towards the response costs incurred by EPA. The proposed Consent Decree resolves BFT's liability under Section 107(a) of CERCLA, 42 U.S.C. 9607(a), for costs already incurred at the site by EPA or by the Department of Justice on behalf of EPA.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, NW., Washington, DC 20044-7611, and should refer to *United States v. City of New Orleans, et al.*, D.J. Ref. 90-11-3-1683/2.

The Consent Decree may be examined at the Office of the United States Attorney, Eastern District of Louisiana, 500 Poydras Street, Suite 210, New Orleans, Louisiana 70130, and at the offices of EPA, Region 6, 1445 Ross Ave., Dallas, TX 75202-2733. During the public comment period, the Consent Decree, may also be examined on the following Department of Justice Web site, <http://www.usdoj.gov/enrd/open.html>. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611 or by faxing or e-mailing a request to Tonia Fleetwood ([tonia.fleetwood@usdoj.gov](mailto:tonia.fleetwood@usdoj.gov)), fax no. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of \$5.00 (25 cents per page reproduction cost) payable to the U.S. Treasury.

**Thomas A. Mariani, Jr.,**

*Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 06-7782 Filed 9-19-06; 8:45 am]

**BILLING CODE 4410-15-M**

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### **United States v. Alltel Corp. Proposed Final Judgment and Competitive Impact Statement**

Notice is hereby given, pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h), that a Complaint, proposed Final Judgment, Preservation of Assets Stipulation, and Competitive Impact Statement were filed with the United States District Court for the District of Minnesota in

*United States v. ALLTEL Corp.*, Civ. Action No. 0:06-cv-03631 (RHK/AJB). On September 7, 2006, the United States filed a Complaint alleging that the proposed acquisition of Midwest Wireless Holdings L.L.C. by ALLTEL Corp. would violate Section 7 of the Clayton Act, 15 U.S.C. 18, by substantially lessening competition in the provision of mobile wireless telecommunications services in four Minnesota markets. The proposed Final Judgment, lodged at the same time as the Complaint, requires ALLTEL to divest its mobile wireless telecommunication business assets in four markets in rural Minnesota in order to proceed with ALLTEL's acquisition of Midwest Wireless. A Competitive Impact Statement filed by the United States describes the Complaint, the proposed Final Judgment, and the remedies available to private litigants who may have been injured by the alleged violation.

Copies of the Complaint, proposed Final Judgment, Preservation of Assets Stipulation, and Competitive Impact Statement are available for inspection at the U.S. Department of Justice, Antitrust Division, 325 Seventh Street, NW., Suite 215, Washington, DC 20530 (202-514-2481), on the Internet at <http://www.usdoj.gov/atr>, and at the Clerk's Office of the United States District Court for Minnesota. Copies of these materials may be obtained upon request and payment of a copying fee.

Public comment is invited within the statutory 60-day comment period. Such comments and responses thereto will be published in the **Federal Register** and filed with the Court. Comments should be directed to Nancy Goodman, Chief, Telecommunications & Media Enforcement Section, Antitrust Division, U.S. Department of Justice, 1401 H Street, NW., Suite 8000, Washington, DC 20530 (202-514-5621).

**J. Robert Kramer II,**

*Director of Operations Antitrust Division.*

United States of America Department of Justice, Antitrust Division, 1401 H Street, NW., Suite 8000 Washington, DC 20530, and State of Minnesota Minnesota Attorney General's Office, 445 Minnesota Street, Suite 1200, St. Paul, Minnesota 55101, Plaintiffs, v. ALLTEL Corporation, One Allied Drive, Little Rock, Arkansas 72202, and Midwest Wireless Holdings L.L.C., 2000 Technology Drive, Mankato, Minnesota 56002, Defendants

### Complaint

The United States of America, acting under the direction of the Attorney General of the United States, and the State of Minnesota, by its Attorney General Mike Hatch, bring this civil

action to enjoin the merger of two mobile wireless telecommunications service providers, ALLTEL Corporation ("ALLTEL") and Midwest Wireless Holdings L.L.C. ("Midwest Wireless"), and to obtain other relief as appropriate. Plaintiffs allege as follows:

1. ALLTEL entered into an agreement to acquire Midwest Wireless, dated November 17, 2005, under which the two companies would combine their mobile wireless telecommunications services businesses ("Transaction Agreement"). Plaintiffs seek to enjoin this transaction because it will substantially lessen competition for mobile wireless telecommunications services in several geographic markets where ALLTEL and Midwest Wireless are each other's most significant competitor.

2. ALLTEL provides mobile wireless telecommunications services in 35 states serving approximately 11 million subscribers. Midwest Wireless provides mobile wireless telecommunications services in three Midwestern states serving approximately 440,000 subscribers. The combination of ALLTEL and Midwest Wireless will substantially lessen competition for mobile wireless telecommunications services in four geographic areas in southern Minnesota where currently both ALLTEL and Midwest Wireless operate. As a result of the proposed acquisition, residents of these mostly rural areas will face the likelihood of increased prices, diminished quality or quantity of services provided, and less investment in network improvements for these services.

### I. Jurisdiction and Venue

3. This Complaint is filed by the United States under Section 15 of the Clayton Act, 15 U.S.C. 25, to prevent and restrain defendants from violating Section 7 of the Clayton Act, 15 U.S.C. 18. Plaintiff Minnesota, by and through its Attorney General, brings this action in its sovereign capacity and as *parens patriae* on behalf of the citizens, general welfare, and economy of the State of Minnesota under Section 16 of the Clayton Act, 15 U.S.C. 26, to prevent defendants from violating Section 7 of the Clayton Act, 15 U.S.C. 18.

4. ALLTEL and Midwest Wireless both provide mobile wireless telecommunications services in the State of Minnesota, as well as other states. The provision of mobile wireless telecommunications services is a commercial activity that substantially affects, and is in the flow of, interstate trade and commerce. The defendants purchase substantial quantities of handsets and equipment from sources