INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–883]

Certain Opaque Polymers; Notice of Commission Decision Amending the Complaint and Notice of Investigation


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”) initial determination (“ID”) (Order No. 8) amending the complaint and notice of investigation in the above-captioned investigation. The amended complaint and notice of investigation add a new claim of trade secret misappropriation against the respondents.

FOR FURTHER INFORMATION CONTACT: Sidney A. Rosenzweig, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708–2532. 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 SW., Washington, DC 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 August 24, 2012, based on a complaint filed by Tyco International LLC of Apto, California; and Aalborz Chemical LLC d/b/a All Chem of Grand Rapids, Michigan. On October 17, 2013, the complainants moved to amend the complaint and notice of investigation to add a new claim of trade secret misappropriation against the respondents. On October 28, 2013, the respondents opposed the motion, and on October 30, 2013, the complainants filed a motion for leave to file an attached reply. On November 7, 2013, the ALJ granted the motion as an ID. Order No. 8. No petitions for review of the ID were filed. The Commission has determined not to review the ID.


Issued: November 25, 2013.

Lisa R. Barton,
Acting Secretary to the Commission.

[FR Doc. 2013–28708 Filed 11–27–13; 8:45 am]

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INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–853]

Certain Wireless Consumer Electronics Devices and Components Thereof; Commission Determination To Review in Part A Final Initial Determination Finding No Violation of Section 337; Extension of Target Date


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”) finding no violation of Section 337 in the above-referenced investigation. The Commission has also determined to extend the target date for completion of this investigation to January 29, 2014.

FOR FURTHER INFORMATION CONTACT: Megan M. Valentine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 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 SW., Washington, DC 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.

and Samsung Electronics America, Inc. of Ridgefield Park, New Jersey (collectively “Samsung”); Sierra Wireless, Inc. of British Columbia, Canada and Sierra Wireless America, Inc. of Carlsbad, California (collectively “Sierra”); and ZTE Corporation of Shenzhen, China and ZTE (USA) Inc. of Richardson, Texas (collectively “ZTE”). The Office of Unfair Import Investigations was named as a participating party.

On February 4, 2013, the Commission terminated the investigation with respect to Sierra. Notice (Feb. 4, 2013); see Order No. 17 (Jan. 15, 2013). On February 15, 2013, the Commission issued a notice indicating that the Notice of Investigation had been amended to remove Huawei NA as a respondent and to add Huawei Device Co., Ltd. of Shenzhen, China; Huawei Device USA Inc. of Plano, Texas; and Futurewei Technologies, Inc. d/b/a Huawei Technologies (USA) of Plano, Texas as respondents. Notice (Feb. 15, 2013); see Order No. 14 (Jan. 8, 2013).

On August 23, 2013, Complainants and respondent Kyocera filed a joint motion to terminate the investigation with respect to Kyocera on the basis of a portfolio licensing agreement entered into between those parties. On August 23, 2013, Complainants and respondent Kyocera filed a joint motion to terminate Amazon from the investigation based on a settlement agreement. On September 17, 2013, Complainants and Acer filed a joint motion to terminate Acer from the investigation based on a settlement agreement. On September 24, 2013, the Commission investigative attorney (“IA”) filed individual responses to each joint motion, supporting the motions to terminate Amazon and Acer based on settlement.

On September 23, 2013, Complainants filed a petition for review of certain aspects of the final ID. In particular, Complainants request that the Commission review the ID’s construction of the “entire oscillator” terms recited in claims 6 and 13 and the ID’s infringement findings based on those limitations. Complainants also request that the Commission review the ID’s infringement findings concerning the limitations “varying,” “independent,” ”and “asynchronous” recited in claims 6 and 13. Also on September 23, 2013, the remaining Respondents who had not settled with Complainants filed a contingent petition for review of certain aspects of the final ID. In particular, Respondents request review of the ID’s finding that Complainants have satisfied the domestic industry requirement based on licensing activities. On October 17, 2013, Respondents filed a response to Complainants’ petition for review. Also on October 17, 2013, Complainants filed a response to Respondents’ contingent petition for review. Further on October 17, 2013, the ALJ filed a joint response to the private parties’ petitions.

Also on October 17, 2013, Complainants’ filed a post-RD statement on the public interest pursuant to Commission Rule 201.50(a)(4). On October 23, 2013, Respondents also filed a submission pursuant to the rule. No responses from the public were received in response to the post-RD Commission Notice issued on September 9, 2013. See Notice of Request for Statements on the Public Interest (Sept. 9, 2013).

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 final ID in part with respect to the ID’s findings concerning claim construction and infringement of claims 6 and 13 of the ’336 patent.

As to the accused products listed at page 88 of the ID and products containing these chips, the Commission has determined not to review the ID’s finding that Complainants have failed to satisfy their burden of proof with respect to infringement of claims 6 and 13.

Regarding the ID’s finding of domestic industry, the Commission has determined to review the ID to consider the question of whether the alleged industry still exists in light of TPL’s relinquishing its right to license the ’336 patent. The Commission has also determined to review the ID’s domestic industry finding to consider whether Complainants have satisfied the economic prong of the domestic industry requirement. The Commission has further determined to review the ID’s statement that Complainants need not show that at least one of their licensees practices the patent(s)-in-suit to demonstrate a license-based domestic industry. See ID at 296 (Public Ver.) (Oct. 24, 2013).

The Commission has determined not to review the remaining issues decided in the final ID.

The Commission has also determined to grant the joint motions to terminate the investigation as to Amazon and Acer based on settlement.

In connection with its review, the parties are requested to brief their positions on the following questions: 1. With respect to the Accused Products using so-called “current-starved technology,” specifically identify which accused chips are implicated, cite to the relevant evidence in the record, and discuss whether those products satisfy the “entire oscillator” limitation of claims 6 and 13 of the ’336 patent.
2. With respect to Complainants’ alleged licensed-based domestic industry, is there a continuing revenue stream from the existing licenses and is the licensing program ongoing? If the licensing program is ongoing, which complainant(s) is/are investing in the program and what is the nature (not amounts) of those investments?

3. Please describe the claimed expenditures for patent prosecution and litigation and explain how they relate to Complainants’ domestic industry in licensing the ‘336 patent. Please provide an estimate of the proportion of the total claimed investments in licensing the ‘336 patent accounted for by the claimed patent prosecution and litigation expenditures.

4. Discuss, in light of the statutory language, legislative history, the Commission’s prior decisions, and relevant court decisions, including InterDigital Communications, LLC v. ITC, 690 F.3d 1318 (Fed. Cir. 2012), 707 F.3d 1295 (Fed. Cir. 2013) and Microsoft Corp. v. ITN Nos. 2012–1445 & -1535, 2013 WL 5479876 (Fed. Cir. Oct. 3, 2013), whether establishing a domestic industry based on licensing under 19 U.S.C. 1337(a)(3)(C) requires proof of “articles protected by the patent” (i.e., a technical prong). Assuming that is so, please identify and describe the evidence in the record that establishes articles protected by the asserted patents.

The parties have been invited to brief only the discrete issues described above, with reference to the applicable law and evidentiary record. The parties are not to brief other issues on review, which are adequately presented in the parties’ existing filings.

In connection with the final disposition of this investigation, the Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue a cease and desist order that could result in the respondent being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or a cease and desist order would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission’s action. See Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury.

Written Submissions: The parties to the investigation are requested to file written submissions on the issues identified in this notice. Parties to the investigation, interested government agencies, the Office of Unfair Import Investigations, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the recommended determination by the ALJ on remedy and bonding and the ALJ’s recommendation regarding the public interest. Complainant and OUII are also requested to submit proposed remedial orders for the Commission’s consideration. Complainant is also requested to state the date that the patent expires and the HTSUS numbers under which the accused products are imported. The written submissions and proposed remedial orders must be filed no later than close of business on December 23, 2013. Initial submissions are limited to 50 pages, not including any attachments or exhibits related to discussion of the public interest. Reply submissions must be filed no later than close of business on December 30, 2013. Reply submissions are limited to 25 pages, not including any attachments or exhibits related to discussion of the public interest. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission’s Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number (“Inv. No. 337–TA–853”) in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The target date for completion of this investigation is extended to January 29, 2014.


Lisa R. Barton,
Acting Secretary to the Commission.

[FR Doc. 2013–28717 Filed 11–27–13; 8:45 am]

DEPARTMENT OF JUSTICE
Office of the Attorney General
[Docket No. OAG 144; AG Order No. 3408–2013]

Pilot Project for Tribal Jurisdiction over Crimes of Domestic Violence

AGENCY: Office of the Attorney General, Justice.

ACTION: Final notice; solicitation of applications for pilot project.

SUMMARY: This final notice establishes procedures for Indian tribes to request designation as participating tribes under section 204 of the Indian Civil Rights Act of 1968, as amended, on an accelerated basis, under the voluntary pilot project described in the Violence Against Women Reauthorization Act; establishes procedures for the Attorney General to act on such requests; and solicits such requests from Indian tribes.

DATES: This final notice is effective November 29, 2013.

ADDRESSES: Mr. Tracy Toulou, Director, Office of Tribal Justice, Department of Justice, 950 Pennsylvania Avenue NW, Room 2310, Washington, DC 20530, email OTF@usdoj.gov.

FOR FURTHER INFORMATION CONTACT: Mr. Tracy Toulou, Director, Office of Tribal Justice, Department of Justice.