

Quinn Emanuel attorneys subsequently sent the incompletely redacted expert report to unauthorized persons at Samsung and other law and consulting firms on several occasions. Some of the non-signatory recipients further disseminated the CBI to other non-signatories, including an Italian court. One of the incidents involved a partner at Quinn Emanuel emailing more than 90 Samsung employees with instructions on how to access the incompletely redacted expert report on an FTP site. Another incident involved a second associate who failed to safeguard CBI by improperly confirming the redactions. In another incident, the same junior associate who made the original redactions discovered that an incompletely redacted report had been inadvertently disclosed to a Samsung employee and alerted the second associate and a supervising partner. Although the Samsung employee deleted the report without viewing the CBI, the second associate later sent a revised version that still contained CBI. No one at Quinn Emanuel notified Apple or the Commission of the disclosure at the time. No other efforts were made to investigate whether other disclosures had been made so as to prevent further disclosures. As a result, the unauthorized disclosures continued.

In connection with the investigation before the Commission, a mid-level associate at Quinn Emanuel failed to redact the same CBI from an outline for a brief on remedy and the public interest. Quinn Emanuel attorneys subsequently sent versions of the outline and the public interest brief containing CBI to unauthorized persons at Samsung and other law firms on several occasions. A partner at Quinn Emanuel discovered one such disclosure, but did not notify Apple or the Commission at the time because he had acted promptly after the discovery to prevent unauthorized persons from viewing CBI.

A third party filed a motion for a protective order in the district court action, alleging that Samsung had obtained CBI. Quinn Emanuel notified the Commission of certain of the disclosures a month later, and two weeks after it had notified the third party of the same disclosures.

The Commission considered several aggravating factors, including the viewing of CBI by unauthorized persons; the discovery of the breaches by a third party; Quinn Emanuel's failure and delay in reporting to the Commission the disclosures when they were discovered; the lengthy period of time in which CBI was unprotected; multiple breaches by Quinn Emanuel

attorneys in the same investigation; and multiple breaches by Quinn Emanuel attorneys in a two-year period. The Commission also considered several mitigating factors, including the inadvertent nature of the breaches; Quinn Emanuel's recent implementation of a firm-wide policy to help prevent unauthorized disclosures; Quinn Emanuel's prompt and strenuous efforts to investigate, cure, and prevent further breaches; and the fact that a federal district court has already sanctioned the disclosures and conduct underlying the breaches relating to the expert report.

Although Quinn Emanuel had procedures to prevent unauthorized disclosures, the firm did not ensure that attorneys complied with those procedures and made unilateral decisions regarding the APO's scope and requirements. The large number and the vast extent of the unauthorized disclosures show that the failure to safeguard CBI was a pervasive problem at Quinn Emanuel.

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 Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: August 25, 2016.

**Lisa R. Barton,**

*Secretary to the Commission.*

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## DEPARTMENT OF JUSTICE

### Bureau of Alcohol, Tobacco, Firearms, and Explosives

[Docket No. ATF 2015R-15]

#### Electronic Collection and Transfer of Import Information: Cessation of PGA Message Set Pilot Program

**AGENCY:** Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

**ACTION:** Notice.

**SUMMARY:** The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) announces cessation of the pilot program that tested the transfer of data between the Participating Government Agency (PGA) Message Set in the Automated Commercial Environment (ACE) and ATF's Web-based data analytics system. ACE is the Web-based portal for the collection and use of international trade data maintained by

U.S. Customs and Border Protection (CBP). The PGA Message Set is the data related to merchandise regulated by an agency, such as ATF, that CBP will receive electronically from importers for its use as well as for the PGA's use. The data enables ATF to determine the actual items imported. Although this notice announces the cessation of the pilot program, the mandatory filing date for filing entries in ACE has yet to be determined.

**DATES:** This notice is effective on August 31, 2016.

**FOR FURTHER INFORMATION CONTACT:**

William E. Majors, Chief, Firearms and Explosives Imports Branch, Firearms and Explosives Services Division, Enforcement Programs and Services; Bureau of Alcohol, Tobacco, Firearms and Explosives; U.S. Department of Justice; 244 Needy Road, Martinsburg, WV 25401; telephone (304) 616-4589, fax: (304) 616-4551, or email: [William.Majors@atf.gov](mailto:William.Majors@atf.gov).

**SUPPLEMENTARY INFORMATION:** ATF participated in a voluntary CBP pilot program of the International Trade Data System (ITDS) involving the use of the PGA Message Set in ACE. See 80 FR 45548 (July 30, 2015). The pilot allowed importers to submit required data to CBP through ACE for the purposes of obtaining CBP release and receipt. CBP validated that information electronically, and electronically transmitted entry and release information to ATF for purposes of satisfying certification requirements. The pilot program confirmed the efficiency and effectiveness of digitizing traditional, manual paperwork. While the pilot has been suspended, the mandatory filing date for filing entries in ACE has yet to be determined.

Importers should be aware that no changes have been made to the requirement that importers submit their copy of the Form 6A (with Sections I and III completed) to ATF within 15 days of release from CBP custody.

**Thomas E. Brandon,**

*ATF Deputy Director.*

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