

Office of Unfair Import  
Investigations



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**UNITED STATES INTERNATIONAL TRADE COMMISSION**

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WASHINGTON, D.C. 20436

February 28, 2007

**BY ELECTRONIC FILING**

Hon. Marilyn R. Abbott  
Secretary to the Commission  
United States International Trade Commission  
Washington, D.C. 20436

Re: Certain Baseband Processor Chips and Chipsets, Transmitter and Receiver (Radio) Chips, Power Control Chips, and Products Containing Same, Including Cellular Handsets - Investigation No. 337-TA-543

Dear Secretary Abbott:

Pursuant to the Notice of Commission Decision to Hold a Public Hearing on the Issues of Remedy and the Public Interest in the above-referenced investigation, 72 Fed. Reg. 7456-57 (February 15, 2007), the Office of Unfair Import Investigations ("OUII") submits a one-page synopsis, attached hereto, of its oral presentation.

Respectfully submitted,

/s/ Karin J. Norton  
Karin J. Norton

cc: Attached certificate of service

## SYNOPSIS OF OUII'S POSITION

This investigation warrants a limited exclusion order prohibiting the entry of (a) any infringing Qualcomm baseband processor chip or chipset that is programmed to enable the battery-saving features of claims 1, 4, 8, 9, and 11 of the '983 patent and (b) cellular telephone handsets, except those that feature a full QWERTY-style keyboard, containing such programmed Qualcomm baseband processor chips. Downstream product relief is not contrary to Section 337(d) or due process. Rather, long-standing Commission precedents support the conclusion here that downstream product relief is appropriate, and indeed necessary, to provide Complainant with complete and effective relief.

The proposed limited exclusion order will not bar EV-DO or GSM technology from the United States and will not dismantle existing EV-DO or GSM networks. It will not leave consumers without cellular telephone options, impede innovation in wireless technology, or thwart the goal of universal broadband access for the American public. It will not harm fair competition for wireless telecommunications in the United States. In sum, the public interest in protecting persons who hold valid U.S. patents from unfair trade practices involving infringing imports is not outweighed here by concerns regarding the public health and welfare or competitive conditions in the United States economy.

Finally, since Qualcomm is the owner and originator of the source code and, hence, may convert any or all chips in its possession into infringing articles at will, a cease and desist order barring Qualcomm from programming (or encouraging or enabling others in the United States to program) its baseband processor chips with software that enables the battery-saving features of claims 1, 4, 8, 9, and 11 of the '983 patent and from engaging in sales and marketing activities in the United States to commercially exploit its inventory of infringing chips is also appropriate.