

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

CERTAIN WIRELESS CONSUMER
ELECTRONICS DEVICES AND COMPONENTS
THEREOF

Inv. No. 337-TA-853

NOTICE REGARDING ISSUANCE OF FINAL INITIAL DETERMINATION AND
RECOMMENDED DETERMINATION ON REMEDY AND BOND

(September 6, 2013)

On this date, the undersigned issued an Initial Determination on Violation of Section 337 and Recommended Determination on Remedy and Bond in the above-referenced Investigation. Attached are the opening pages from said filing, which are a matter of public record. A complete public version of the Initial Determination on Violation of Section 337 and Recommended Determination on Remedy and Bond will be issued when all the parties have submitted, and the undersigned has had an opportunity to review, the proposed redactions.

SO ORDERED.


E. James Gildea
Administrative Law Judge

ATTACHMENT A

UNITED STATES INTERNATIONAL TRADE COMMISSION

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In the Matter of

CERTAIN WIRELESS CONSUMER
ELECTRONICS DEVICES AND COMPONENTS
THEREOF

Inv. No. 337-TA-853

INITIAL DETERMINATION ON VIOLATION OF SECTION 337 AND
RECOMMENDED DETERMINATION ON REMEDY AND BOND

Administrative Law Judge E. James Gildea

(September 6, 2013)

Appearances:

For Complainants Technology Properties Limited LLC and Phoenix Digital Solutions LLC:

James C. Otteson, Esq.; Philip W. Marsh, Esq.; Thomas T. Carmack, Esq.; and Erica Sowers, Esq. of Agility IP Law, LLP of Menlo Park, CA.

For Complainant Patriot Scientific Corporation:

Charles T. Hoge, Esq. of Kirby Noonan Lance & Hoge, LLP of San Diego, CA.

For Respondents Acer, Inc.; Acer America Corporation; Amazon.com, Inc.; and Novatel Wireless, Inc.:

Michael J. Bettinger, Esq.; Timothy P. Walker, Esq.; Harold H. Davis, Jr., Esq.; and Curt Holbreich, Esq. of K&L Gates LLP of San Francisco, CA.

Eric C. Rusnak, Esq. of K&L Gates LLP of Washington, D.C.

Michael Abernathy, Esq. of K&L Gates LLP of Chicago, IL.

For Respondent Barnes & Noble, Inc.:

Paul F. Brinkman, Esq.; David Eiseman, Esq.; Pamela Van Dort, Esq.; and Michael James O'Connor, Esq. of Quinn Emanuel Urquhart & Sullivan, LLP of Washington, D.C.

For Respondents Kyocera Corporation and Kyocera Communications, Inc.:

Andrew Woodmansee, Esq.; Stephen D. Keane, Esq.; and Christian G. Andreu-von Euw, Esq. of Morrison & Foerster LLP of San Diego, CA.

G. Brian Busey, Esq. and Tihua Huang, Esq. of Morrison & Foerster LLP of Washington, D.C.

For Respondents Huawei Technologies Co., Ltd; Huawei Device Co., Ltd; Huawei Device USA Inc.; and Futurewei Technologies, Inc.:

Timothy C. Bickham, Esq.; Charles Schill, Esq.; Alice A. Kipel, Esq.; and Hue Shin, Esq. of Steptoe & Johnson LLP of Washington, D.C.

For Respondents Garmin Ltd., Garmin International, Inc. and Garmin USA, Inc.:

Louis S. Mastriani, Esq.; Sarah E. Hamblin, Esq.; Daniel F. Smith, Esq.; and Emi Ito Ortiz, Esq. of Adduci Mastriani & Schaumberg LLP of Washington, D.C.

Adam P. Seitz, Esq.; Paul Hart, Esq.; and Jason Mudd, Esq. of Erise IP, P.A. of Overland Park, KS.

For Respondents HTC Corporation; HTC America, Inc.; Nintendo Co., Ltd.; and Nintendo of America Inc.:

Stephen R. Smith, Esq.; Phillip Morton, Esq.; and Laura Cunningham, Esq. of Cooley LLP of Reston, VA.

Kyle Chen, Esq. and Matthew Brigham, Esq. of Cooley LLP of Palo Alto, CA.

For Respondents LG Electronics, Inc. and LG Electronics USA, Inc.:

Michael J. McKeon, Esq.; Christian A. Chu, Esq.; Scott A. Elengold, Esq.; and Richard A. Sterba, Esq. of Fish & Richardson P.C. of Washington, D.C.

For Respondents ZTE Corporation and ZTE (USA), Inc.:

Robert Mallin, Esq.; William H. Frankel, Esq.; Laura Beth Miller, Esq.; and Hersh Mehta, Esq. of Brinks Hofer Gilson & Lione of Chicago, IL.

Jay H. Reiziss, Esq. and Michelle A. Miller, Esq. of Brinks Hofer Gilson & Lione of Washington, D.C.

For Respondents Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc.:

Mark Fowler, Esq.; Aaron Wainscoat, Esq.; and Erik R. Fuehrer, Esq. of DLA Piper LLP of East Palo Alto, CA.

James M. Heintz, Esq. of DLA Piper LLP of Reston, VA.

Robert C. Williams, Esq. of DLA Piper LLP of San Diego, CA.

For the Commission Investigative Staff:

Anne Goalwin, Esq., Acting Director; David O. Lloyd, Esq., Supervisory Attorney; and R. Whitney Winston, Esq., Investigative Attorney, of the Office of Unfair Import Investigations, U.S. International Trade Commission of Washington, D.C.

Pursuant to the Notice of Investigation, 77 Fed. Reg. 51572-73 (August 24, 2012), this is the Initial Determination of the Investigation in the Matter of Certain Wireless Consumer Electronics Devices and Components Thereof, United States International Trade Commission Investigation No. 337-TA-853. *See* 19 C.F.R. § 210.42(a).

With respect to Respondents Acer, Inc. and Acer America Corporation, it is held that no violation of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), has occurred in the importation into the United States, the sale for importation, or the sale within the United States after importation, of certain wireless consumer electronics devices and components thereof, by reason of infringement of one or more of claims 1, 6, 7, 9-11, and 13-16 of United States Patent No. 5,809,336.

With respect to Respondent Amazon.com, Inc., it is held that no violation of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), has occurred in the importation into the United States, the sale for importation, or the sale within the United States after importation, of certain wireless consumer electronics devices and components thereof, by reason of infringement of one or more of claims 1, 6, 7, 9-11, and 13-16 of United States Patent No. 5,809,336.

With respect to Respondent Barnes & Noble, Inc., it is held that no violation of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), has occurred in the importation into the United States, the sale for importation, or the sale within the United States after importation, of certain wireless consumer electronics devices and components thereof, by reason of infringement of one or more of claims 1, 6, 7, 9-11, and 13-16 of United States Patent No. 5,809,336.

With respect to Respondents Garmin Ltd.; Garmin International, Inc.; and Garmin USA, Inc., it is held that no violation of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), has occurred in the importation into the United States, the sale for importation, or the sale within the United States after importation, of certain wireless consumer electronics devices and components thereof, by reason of infringement of one or more of claims 1, 6, 7, 9-11, and 13-16 of United States Patent No. 5,809,336.

With respect to Respondents HTC Corporation and HTC America, Inc., it is held that no violation of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), has occurred in the importation into the United States, the sale for importation, or the sale within the United States after importation, of certain wireless consumer electronics devices and components thereof, by reason of infringement of one or more of claims 1, 6, 7, 9-11, and 13-16 of United States Patent No. 5,809,336.

With respect to Respondents Huawei Technologies Co., Ltd; Huawei Device Co., Ltd; Huawei Device USA Inc.; and Futurewei Technologies, Inc., it is held that no violation of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), has occurred in the importation into the United States, the sale for importation, or the sale within the United States after importation, of certain wireless consumer electronics devices and components thereof, by reason of infringement of one or more of claims 1, 6, 7, 9-11, and 13-16 of United States Patent No. 5,809,336.

With respect to Respondents Kyocera Corporation and Kyocera Communications, Inc., it is held that no violation of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), has occurred in the importation into the United States, the sale for importation, or the sale within the United States after importation, of certain wireless consumer electronics devices and

components thereof, by reason of infringement of one or more of claims 1, 6, 7, 9-11, and 13-16 of United States Patent No. 5,809,336.

With respect to Respondents LG Electronics, Inc. and LG Electronics USA, Inc., it is held that no violation of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), has occurred in the importation into the United States, the sale for importation, or the sale within the United States after importation, of certain wireless consumer electronics devices and components thereof, by reason of infringement of one or more of claims 1, 6, 7, 9-11, and 13-16 of United States Patent No. 5,809,336.

With respect to Respondents Nintendo Co., Ltd. and Nintendo of America Inc., it is held that no violation of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), has occurred in the importation into the United States, the sale for importation, or the sale within the United States after importation, of certain wireless consumer electronics devices and components thereof, by reason of infringement of one or more of claims 1, 6, 7, 9-11, and 13-16 of United States Patent No. 5,809,336.

With respect to Respondent Novatel Wireless, Inc., it is held that no violation of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), has occurred in the importation into the United States, the sale for importation, or the sale within the United States after importation, of certain wireless consumer electronics devices and components thereof, by reason of infringement of one or more of claims 1, 6, 7, 9-11, and 13-16 of United States Patent No. 5,809,336.

With respect to Respondents Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc., it is held that no violation of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), has occurred in the importation into the United States, the sale for

importation, or the sale within the United States after importation, of certain wireless consumer electronics devices and components thereof, by reason of infringement of one or more of claims 1, 6, 7, 9-11, and 13-16 of United States Patent No. 5,809,336.

With respect to Respondents ZTE Corporation and ZTE (USA), Inc., it is held that no violation of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), has occurred in the importation into the United States, the sale for importation, or the sale within the United States after importation, of certain wireless consumer electronics devices and components thereof, by reason of infringement of one or more of claims 1, 6, 7, 9-11, and 13-16 of United States Patent No. 5,809,336.

It is further held that a domestic industry exists that practices U.S. Patent No. 5,809,336.

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER** has been served by hand upon, the Commission Investigative Attorney, Whitney Winston, Esq., and the following parties as indicated on _____, **2013.**

Lisa R. Barton, Acting Secretary
U.S. International Trade Commission
500 E Street, SW, Room 112
Washington, DC 20436

**On Behalf of Complainants Technology Properties Limited
LLC and Phoenix Digital Solutions LLC:**

James C. Otteson, Esq.
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On Behalf of Complainant Patriot Scientific Corporation :

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**On Behalf of Respondents Acer Inc., Acer America
Corporation, Amazon.com Inc. and Novatel Wireless, Inc.:**

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**CERTAIN WIRELESS CONSUMER ELECTRONICS
DEVICES AND COMPONENTS THEREOF**

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**On Behalf of Respondents Garmin Ltd., Garmin International,
Inc. and Garmin USA, Inc. :**

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On Behalf of Respondent Barnes & Noble, Inc.:

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**On Behalf of Respondent Huawei Technologies Co., Ltd.,
Huawei Device Co., Ltd., Huawei Device USA Inc., and
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On Behalf of ZTE Corporation and ZTE (USA) Inc.:

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**On Behalf of Samsung Electronics Co., Ltd. and Samsung
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**On Behalf of HTC Corporation; HTC America; Nintendo Co.,
Ltd. and Nintendo of America, Inc. :**

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**On Behalf of Kyocera Corporation and Kyocera
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**On Behalf of LG Electronics, Inc. and LG Electronics U.S.A.,
Inc. :**

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