

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

**CERTAIN BASEBAND PROCESSOR CHIPS AND
CHIPSETS, TRANSMITTER AND RECEIVER
(RADIO) CHIPS, POWER CONTROL CHIPS, AND
PRODUCTS CONTAINING SAME, INCLUDING
CELLULAR TELEPHONE HANDSETS**

Inv. No. 337-TA-543

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

(October 10, 2006)

On October 10, 2006, the administrative law judge filed an Initial Determination and a Recommended Determination on Remedy and Bond in the above-referenced investigation. Attached are pages 1-2 and 260-263 from said filing, which are a matter of public record. In addition, regarding remedy, the undersigned does not recommend that the exclusion order include downstream products.

A complete public version of the Initial Determination and Recommended Determination on Remedy and Bond will be issued when all the parties have submitted their redactions and the undersigned has had an opportunity to review the redactions.


Charles E. Bullock
Administrative Law Judge

PUBLIC VERSION

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(RADIO) CHIPS, POWER CONTROL CHIPS, AND
PRODUCTS CONTAINING SAME, INCLUDING
CELLULAR TELEPHONE HANDSETS**

Inv. No. 337-TA-543

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

Administrative Law Judge Charles E. Bullock

(October 10, 2006)

Pursuant to the Notice of Investigation¹ and Rule 210.42(a) of the Rules of Practice and Procedure of the United States International Trade Commission, this is the Administrative Law Judge's Initial Determination in the matter of *Certain Baseband Processor Chips and Chipsets, Transmitter and Receiver (Radio) Chips, Power Control Chips, and Products Containing Same, Including Cellular Telephone Handsets*, Investigation No. 337-TA-543.

The Administrative Law Judge hereby determines that a violation of Section 337 of the Tariff Act of 1930, as amended, has been found in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain baseband processor chips and chipsets, transmitter and receiver (radio) chips, power control chips, and products

¹ 70 Fed. Reg. 35,707 (June 21, 2005).

containing same, including cellular telephone handsets in connection with claims 1, 4, 8, 9, and 11 of U.S. Patent No. 6,714,983, and that a violation of Section 337 has not been found in connection with claims 1-5, 7, 8, 13, 14, and 16-19 of U.S. Patent No. 6,374,311; claims 14 and 17-24 of U.S. Patent No. 6,714,983; and claims 33 and 35 of U.S. Patent No. 6,583,675. Furthermore, the Administrative Law Judge hereby determines that a domestic industry in the United States exists that practices U.S. Patent Nos. 6,374,311; 6,714,983; and 6,583,675.

CONCLUSIONS OF LAW

1. The Commission has subject matter jurisdiction in this investigation.
2. The Commission has personal jurisdiction over Respondent Qualcomm Incorporated.
3. Qualcomm's accused products do not infringe, either directly, or indirectly, claims 1-5, 7, 8, 13, 14, and 16-19 of U.S. Patent No. 6,374,311 in violation of 35 U.S.C. § 271(a).
4. Qualcomm's accused products directly infringe claims 1, 4, 8, 9, and 11 of U.S. Patent No. 6,714,983 in violation of 35 U.S.C. § 271(a). In addition, Qualcomm induces infringement of claims 1, 4, 8, 9, and 11 of U.S. Patent No. 6,714,983 in violation of 35 U.S.C. § 271(a). Qualcomm does not, however, contributorily infringe claims 1, 4, 8, 9, and 11 of U.S. Patent No. 6,714,983 in violation of 35 U.S.C. § 271(a).
5. Qualcomm's accused products do not infringe, either directly, or indirectly, claims 14 and 17-24 of U.S. Patent No. 6,714,983 in violation of 35 U.S.C. § 271(a).
6. Qualcomm's accused products do not infringe claims 33 and 35 of U.S. Patent No. 6,583,675 in violation of 35 U.S.C. § 271(a).
7. An industry in the United States exists with respect to Broadcom's products that is protected by claim 1 of U.S. Patent No. 6,374,311, as required by 19 U.S.C. § 1337(a)(2) and (3).
8. An industry in the United States exists with respect to Broadcom's products that is protected by claim 1 of U.S. Patent No. 6,714,983, as required by 19 U.S.C. § 1337(a)(2) and (3).
9. An industry in the United States exists with respect to Broadcom's products that is protected by claim 33 of U.S. Patent No. 6,583,675, as required by 19 U.S.C. § 1337(a)(2) and (3).
10. Claims 1-5, 7, 8, 13, 14, and 16-19 of U.S. Patent No. 6,374,311 are not invalid under 35 U.S.C. § 102 for anticipation based on any of the following references:

- a. Mobitex Terminal Specification (“MTS”);
 - b. Global System for Mobile Communications (“GSM”) technical specification;
 - c. the COGNITO System; and
 - d. CDMA Draft Revision 0.
11. Claims 1-5, 7, 8, 13, 14, and 16-19 of U.S. Patent No. 6,374,311 are not invalid under 35 U.S.C. § 112 ¶ 1 for lack of written description.
 12. Claims 1, 4, 8, 9, 11, 14, and 17-24 of U.S. Patent No. 6,714,983 are not invalid under 35 U.S.C. § 102 for anticipation based on any of the following references:
 - a. Global System for Mobile Communications (“GSM”) technical specification;
 - b. CDMA Draft Revision 0;
 - c. U.S. Patent No. 4,964,121 (“Moore”);
 - d. U.S. Patent No. 5,203,020 (“Sato”); and
 - e. U.S. Patent No. 5,128,938 (“Borras”).
 13. Claims 1, 4, 8, 9, 11, 14, and 17-24 of U.S. Patent No. 6,714,983 are not invalid under 35 U.S.C. § 103 for single-reference obviousness.
 14. Claims 1, 4, 8, 9, 11, 14, and 17-24 of U.S. Patent No. 6,714,983 are not invalid under 35 U.S.C. § 112 ¶ 1 for lack of enablement.
 15. Claims 33 and 35 of U.S. Patent No. 6,583,675 are not invalid under 35 U.S.C. § 102 for anticipation based on U.S. Patent No. 5,6245,325 (“Rotzoll”).
 16. Claims 33 and 35 of U.S. Patent No. 6,583,675 are not invalid under 35 U.S.C. § 102’s on-sale bar provision due to sales or offers for sale of Broadcom’s BCM 3415 chip.

INITIAL DETERMINATION

Based on the foregoing opinion, findings of fact, conclusions of law, the evidence, and the record as a whole, and having considered all pleadings and arguments, including the proposed findings of fact and conclusions of law, it is the Administrative Law Judge's Initial Determination that a violation of Section 337 of the Tariff Act of 1930, as amended, has been found in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain baseband processor chips and chipsets, transmitter and receiver (radio) chips, power control chips, and products containing same, including cellular telephone handsets in connection with claims 1, 4, 8, 9, and 11 of U.S. Patent No. 6,714,983, and that a violation of Section 337 has not been found in connection with claims 1-5, 7, 8, 13, 14, and 16-19 of U.S. Patent No. 6,374,311; claims 14 and 17-24 of U.S. Patent No. 6,714,983; and claims 33 and 35 of U.S. Patent No. 6,583,675. Furthermore, the Administrative Law Judge hereby determines that a domestic industry in the United States exists that practices U.S. Patent Nos. 6,374,311; 6,714,983; and 6,583,675.

The Administrative Law Judge hereby CERTIFIES to the Commission this Initial Determination, together with the record of the hearing in this investigation consisting of the following: the transcript of the evidentiary hearing, with appropriate corrections as may hereafter be ordered by the Administrative Law Judge; and further the exhibits accepted into evidence in this investigation as listed in the attached exhibit lists.

Pursuant to 19 C.F.R. § 210.42(h), this Initial Determination shall become the determination of the Commission unless a party files a petition for review pursuant to 19 C.F.R. § 210.43(a) or the Commission, pursuant to 19 C.F.R. § 210.44, orders on its own motion a review of the Initial

Determination or certain issues therein.