

**UNITED STATES INTERNATIONAL TRADE COMMISSION**  
**Washington, D.C.**

**In the Matter of**

**CERTAIN MOBILE TELEPHONE  
HANDSETS, WIRELESS  
COMMUNICATION DEVICES, AND  
COMPONENTS THEREOF**

**Investigation No. 337-TA-578**

**NOTICE OF COMMISSION DECISION NOT TO REVIEW AN INITIAL  
DETERMINATION OF THE ADMINISTRATIVE LAW JUDGE FINDING NO  
VIOLATION OF SECTION 337; TERMINATION OF INVESTIGATION**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (“ID”) issued by the presiding administrative law judge (“ALJ”) determining that there is no violation of section 337 of the Tariff Act of 1930.

**FOR FURTHER INFORMATION CONTACT:** Eric Frahm, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3107. 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, S.W., Washington, D.C. 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 section 337 investigation on July 12, 2006, based on a complaint filed by QUALCOMM Incorporated of San Diego, California (“Qualcomm”). 71 *Fed. Reg.* 39362 (July 12, 2006). The complaint, as amended, alleged violations of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain mobile telephone handsets, wireless communications devices, and components thereof by reason of infringement of certain claims of six U.S. patents. The

complaint and notice of investigation named Nokia Corporation of Finland and Nokia Inc. of Irving, Texas (collectively, “Nokia”), as respondents. The complaint, as amended, further alleged that an industry in the United States exists as required by subsection 337(a)(2). Only claims 1 and 3 of U.S. Patent No. 5,452,473 (“the ‘473 patent”), claim 1 of U.S. Patent No. 5,590,408 (“the ‘408 patent”), and claim 2 of U.S. Patent No. 5,655,220 (“the ‘220 patent”) remain in the investigation.

On December 12, 2007, the ALJ issued his final ID finding no violation of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337). Specifically, the ALJ determined that there had been an importation of Nokia’s accused products, and that none of Nokia’s accused products infringe the asserted claims of the ‘473, ‘408, or ‘220 patents. With regard to claims 1 and 3 of the ‘473 patent, the ALJ determined these asserted claims were not proven to be invalid under the best mode requirement of 35 U.S.C. § 112 or anticipated under 35 U.S.C. § 102. The ALJ also determined that claims 1 and 3 of the ‘473 patent were proven to be invalid as obvious under 35 U.S.C. § 103. With regard to claim 1 of the ‘408 patent and claim 2 of the ‘220 patent, the ALJ determined that these asserted claims were not proven to be invalid. The ALJ determined that a domestic industry exists that practices the ‘473, ‘408, and ‘220 patents. Finally, the ALJ made a recommendation that if the Commission finds a violation under section 337, a limited exclusion and cease and desist orders should issue with a bond set in the amount of 100 percent of entered value during the 60 day period of Presidential review.

On January 9, 2008, Qualcomm and Nokia each filed petitions for review. The Commission Investigative Attorney (“IA”) did not file a petition for review.

On January 23, 2008, Qualcomm and Nokia filed responses to each other’s petitions for review. The IA filed his response to both petitions on January 24, 2008.

On February 5, 2008, Qualcomm filed a letter requesting that the Commission consider the recent Federal Circuit decision in *Oatey Co. v. IPS, Corp.*, Case No. 07-1214, slip op. (Fed. Cir. Jan. 30, 2008). Nokia filed a responsive letter on February 6, 2008.

Having examined the record of this investigation, including the ALJ’s final ID and the submissions of the parties, the Commission has determined not to review the ALJ’s determination.

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 section 210.42-45 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.42-45).

By order of the Commission.

Marilyn R. Abbott  
Secretary to the Commission

Issued: February 27, 2008