

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

In the Matter of

**CERTAIN GPS DEVICES AND
PRODUCTS CONTAINING SAME**

Investigation No. 337-TA-602

**NOTICE OF COMMISSION FINAL DETERMINATION OF VIOLATION OF
SECTION 337; TERMINATION OF INVESTIGATION; ISSUANCE OF LIMITED
EXCLUSION ORDER AND CEASE AND DESIST ORDERS**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined that there is a violation of 19 U.S.C. § 1337 by SiRF Technology, Inc. of San Jose, California (“SiRF”); Pharos Science & Applications, Inc. of Torrance, California (“Pharos”); MiTAC International Corp. of Taiwan (“MiTAC”); Mio Technology Ltd., USA of Fremont, California (“Mio”); and E-TEN Information Systems Co., Ltd. of Taiwan (“E-TEN”) (collectively, “Respondents”) in the above-captioned investigation. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Daniel E. Valencia, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-1999. 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 investigation on May 7, 2007, based on a complaint filed by Global Locate, Inc. of San Jose, California (“Global Locate”). *72 Fed. Reg. 25777* (May 7, 2007). The complaint 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 GPS (Global Positioning System) devices and products containing the same by reason of infringement of various claims of United States Patent Nos. 6,417,801 (“the ‘801 patent”); 6,606,346 (“the ‘346 patent”); 6,651,000 (“the ‘000 patent”); 6,704,651 (“the ‘651 patent”); 6,937,187 (“the ‘187

patent”); and 7,158,080 (“the ‘080 patent”). The complaint named SiRF, Pharos, MiTAC, Mio, and E-TEN as respondents. The notice of investigation was subsequently amended to add Broadcom Corporation (“Broadcom”) of Irvine, California as a complainant when Broadcom acquired Global Locate (collectively, “Complainants”).

On August 8, 2008, the ALJ issued his final ID finding a violation of section 337 in the importation and the sale after importation of certain GPS devices and products containing the same, in connection with the asserted claims of each of the six patents at issue. Respondents and the Commission investigative attorney (IA) each filed petitions for review on August 25, 2008. On September 5, 2008, Complainants and the IA each filed responses to the petitions for review.

On October 9, 2008, the Commission determined to review the ALJ’s final ID in part and requested briefing on the issues under review, remedy, the public interest, and bonding. The Commission determined to review: (1) the ID’s finding that Global Locate has standing to assert the ‘346 patent; (2) the ID’s finding that SiRF directly infringes claim 1 of the ‘651 patent through its commercial activities; and (3) the ID’s finding that SiRF directly infringes claim 1 of the ‘000 patent through its commercial activities. On October 27, 2008, the parties filed written submissions on the issues under review, and on November 3, 2008, the parties filed response submissions.

On October 21, 2008, the Commission extended the deadline for receiving written submissions on remedy, the public interest, and bonding until November 13, 2008, in light of the Federal Circuit’s recent decision in *Kyocera Wireless Corp. v. ITC*, 545 F.3d 1340 (Fed. Cir. 2008). On November 13, 2008, the parties to the investigation along with non-party Garmin International, Inc. each filed written submissions on remedy, the public interest, and bonding. On November 14, 2008, Nokia Corporation and Nokia Inc. (collectively “Nokia”), also non-parties, filed a motion for leave to file written submissions on remedy, the public interest, and bonding one day late with the submission attached. No party opposed this motion. The Commission has determined to grant Nokia’s motion. On November 24, 2008, the parties filed reply submissions on remedy, the public interest, and bonding.

On November 18, 2008, Respondents filed a petition for reconsideration of the Commission’s determination not to review the ALJ’s finding that claim 1 of the ‘187 patent and claims 1, 2, and 11 of the ‘801 patent recite patent-eligible subject matter under 35 U.S.C. §101 in light of the Federal Circuit’s *en banc* decision in *In re Bilski*, 545 F.3d 943 (Fed. Cir. 2008). On November 25, 2008, Complainants and the IA each filed responses in opposition to Respondents’ petition for reconsideration. Having reviewed the petition for reconsideration and the responses, the Commission has determined to deny the petition for reconsideration.

Having examined the record of this investigation, including the ALJ’s final ID, the Commission has determined to modify the following findings in the ID: (i) Global Locate has standing to assert the ‘346 patent, (ii) SiRF directly infringes the ‘000 patent through its commercial activities, and (iii) SiRF directly infringes the ‘651 patent through its commercial activities. These modifications merely clarify the ALJ’s findings.

The Commission has determined that the appropriate form of relief is (i) a limited exclusion order prohibiting the unlicensed entry of GPS chips and products incorporating these chips that infringe one or more of claims 4 and 11 of the '346 patent, claims 1, 2, and 22 of the '080 patent, claims 1, 2, and 11 of the '801 patent, claims 1 and 9 of the '187 patent, claims 1 and 2 of the '651 patent, and claims 1, 2, and 5 of the '000 patent and are manufactured abroad by or on behalf of, or imported by or on behalf of, SiRF, E-TEN, Pharos, MiTAC and Mio; and (ii) cease and desist orders against domestic respondents SiRF, Mio, and Pharos.

The Commission further determined that the public interest factors enumerated in section 337(d) and (f)(19 U.S.C. § 1337(d), (f)) do not preclude issuance of the limited exclusion order and the cease and desist orders. Finally, the Commission determined the amount of bond to permit temporary importation during the Presidential review period (19 U.S.C. § 1337(j)) shall be in the amount of one hundred (100) percent of the entered value of the articles that are subject to the order. The Commission's order was delivered to the President and the United States Trade Representative on the day of its issuance.

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 sections 210.42-50 of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.42-50).

By order of the Commission.

/s/

Marilyn R. Abbott
Secretary to the Commission

Issued: January 15, 2009