

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

In the Matter of

**CERTAIN 3G MOBILE HANDSETS
AND COMPONENTS**

Investigation No. 337-TA-613

**NOTICE OF COMMISSION DECISION TO REVIEW, REVERSE, AND REMAND AN
INITIAL DETERMINATION GRANTING RESPONDENTS' MOTION FOR
SUMMARY DETERMINATION THAT THE '791 PATENT IS INVALID; DENIAL OF
MOTION FOR LEAVE TO FILE A REPLY**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review an initial determination ("ID") issued by the presiding administrative law judge ("ALJ") granting respondents' motion for summary determination that U.S. Patent No. 6,674,791 ("the '791 patent") is invalid. On review, the Commission has determined to reverse the ID and remand for further proceedings.

FOR FURTHER INFORMATION CONTACT: Megan M. Valentine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-2301. 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 subject ID concerns investigations which have now been consolidated: Inv. No. 337-TA-601 and Inv. No. 337-TA-613. The Commission instituted Inv. No. 337-TA-601 on April 27, 2007, based on a complaint filed by InterDigital Communications Corp. of King of Prussia, Pennsylvania and InterDigital Technology Corp. of Wilmington, Delaware (collectively, "InterDigital") on March 23, 2007. *72 Fed. Reg.* 21049

(April 27, 2007). 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 3G wideband code division multiple access (“WCDMA”) handsets and components thereof by reason of infringement of certain claims of the ‘791 patent; U.S. Patent Nos. 6,693,579 (“the ‘579 patent”); 7,117,004 (“the ‘004 patent”); 7,190,966 (“the ‘966 patent”); and 7,286,847 (“the ‘847 patent”). The notice of investigation named Samsung Electronics Co., Ltd. of Seoul, Korea; Samsung Electronics America, Inc. of Ridgefield Park, New Jersey; and Samsung Telecommunications America LLC of Richardson, Texas (collectively, “Samsung”) as respondents.

The Commission instituted Inv. No. 337-TA-613 on September 11, 2007, based on a complaint filed by InterDigital on August 7, 2007. 72 *Fed. Reg.* 51838 (September 11, 2007). 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 3G mobile handsets and components by reason of infringement of certain claims of the ‘579, ‘004, ‘966, and ‘847 patents. The notice of investigation named Nokia Corporation of Finland and Nokia Inc. of Irving, Texas (collectively, “Nokia”) as respondents. On October 24, 2007, the ALJ consolidated Inv. No. 337-TA-601 with Inv. No. 337-TA-613. On April 14, 2008, the ALJ issued an order suspending the commencement of the evidentiary hearing and any related submission deadlines pending resolution of a preliminary injunction entered against InterDigital in New York State district court, requiring InterDigital to suspend all actions in the current investigation with respect to Nokia.

On March 17, 2008, Samsung moved for summary determination that Samsung has committed no violation of 19 U.S.C. § 1337 with respect to the only asserted claim of the ‘791 patent, claim 7, because claim 7 is anticipated by certain prior art, or alternatively, because claim 7 is not infringed by the accused Samsung mobile handset devices. On March 27, 2008, the Commission investigative attorney (“the IA”) filed a response to Samsung’s motion, and on March 28, 2008, InterDigital filed an opposition to Samsung’s motion.

On April 22, 2008, the ALJ issued an ID granting Samsung’s motion for summary determination. The ALJ found that the so-called IS-95 prior art references disclose each limitation of claim 7 of the ‘791 patent, including the single disputed claim limitation, and therefore, anticipate the claim. As claim 7 is the only asserted claim of the ‘791 patent, the ALJ terminated the investigation with respect to the ‘791 patent.

On April 29, 2008, InterDigital petitioned for review of the ID, claiming that the ALJ committed legal error by failing to construe a disputed claim limitation. On May 6, 2008, Samsung and the IA filed responses to InterDigital’s petition for review. On May 9, 2008, InterDigital filed a motion for leave to file a reply in support of its petition for review, claiming that Samsung and the IA raised new issues in their responses to InterDigital’s petition for review. As no new issues were raised by Samsung or the IA in their response to InterDigital’s petition for review, InterDigital’s motion is denied.

Having reviewed the record on the matter and the parties' submissions, we have determined to review the subject ID and reverse the ALJ's granting of Samsung's motion for summary determination. Accordingly, we remand this issue to the ALJ for further findings in accordance with the Commission's order.

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, 210.43, and 210.45 of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.42, 210.43, 210.45).

By order of the Commission.

/s/
Marilyn R. Abbott
Secretary to the Commission

Issued: May 30, 2008