

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN AUDIO PROCESSING
HARDWARE, SOFTWARE, AND
PRODUCTS CONTAINING THE SAME**

Investigation No. 337-TA-1026

**NOTICE OF COMMISSION'S DETERMINATION FINDING NO VIOLATION OF
SECTION 337; TERMINATION OF THE INVESTIGATION**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission reverses in-part and affirms in-part, with additional reasoning, the final initial determination ("ID") issued by the presiding administrative law judge ("ALJ") on October 26, 2017. The Commission also takes no position on various issues. The Commission finds no violation of section 337 of the Tariff Act of 1930, as amended, has occurred, and terminates the investigation.

FOR FURTHER INFORMATION CONTACT: Amanda Fisherow, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436, telephone (202) 205-2737. 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, SW, Washington, DC 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 October 25, 2016, based on a complaint filed by Andrea Electronics Corp. of Bohemia, New York ("Andrea"). 81 FR 73418 (Oct. 25, 2016). The complaint alleges violations of section 337 by reason of infringement of certain claims of U.S. Patent No. 6,049,607 ("the '607 patent"), U.S. Patent No. 6,363,345 ("the '345 patent"), and U.S. Patent No. 6,377,637 ("the '637 patent"). The Commission's notice of investigation named the following respondents: Apple Inc. of Cupertino, California ("Apple"); and Samsung Electronics Co., Ltd. of Gyeonggi-do, Korea, and Samsung Electronics America, Inc. of Ridgefield Park, New Jersey (collectively, "Samsung"). The Office

of Unfair Import Investigations (“OUII”) is also a party in this investigation. Samsung was previously terminated from the investigation. Order No. 68; Comm’n Notice (Sept. 13, 2017). All asserted claims of the ’607 and ’637 patents were also previously terminated from the investigation. Order No. 37; Comm’n Notice (June 30, 2018); Order No. 31; Comm’n Notice (May 25, 2017).

On October 26, 2017, the ALJ issued her final ID finding no violation of section 337 by Apple with respect to the ’345 patent. Specifically, the final ID found that Andrea does not have standing to assert the ’345 patent, the accused products do not infringe the ’345 patent, and Andrea has not met the domestic industry requirements.

On November 8, 2017, Andrea and OUII each filed timely petitions for review of the final ID. That same day, Apple filed a contingent petition for review of the final ID. On November 16, 2017, the parties each filed a timely response to the petitions for review. On November 27, 2017, the private parties filed their public interest comments pursuant to Commission Rule 210.50. No public interest comments were received from the public.

On January 11, 2018, the Commission determined to review the final ID in-part. 83 FR 2670-71 (Jan. 18, 2018). Specifically, the Commission determined to review the ID’s findings on (1) standing, (2) infringement, (3) invalidity, (4) inequitable conduct, and (5) domestic industry. On January 25, 2018, Andrea, Apple, and OUII each filed a response to the Commission’s notice of review. On February 1, 2018, the parties each filed respective replies.

Having considered the record in this investigation and the parties’ submissions, the Commission finds that no violation of section 337 has occurred. The Commission (1) reverses the ID’s finding on standing and finds that Andrea has standing to assert the ’345 patent; (2) affirms, with additional reasoning, the ID’s finding of no domestic industry; and (3) takes no position on the remaining issues under review.

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 Part 210 of the Commission’s Rules of Practice and Procedure, 19 CFR Part 210.

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: March 22, 2018