

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN LTE- AND 3G-COMPLIANT
CELLULAR COMMUNICATIONS
DEVICES**

Investigation No. 337-TA-1138

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION PARTIALLY TERMINATING THE INVESTIGATION WITH
RESPECT TO CERTAIN ASSERTED PATENT CLAIMS**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (“Commission”) has determined not to review an initial determination (“ID”) (Order No. 46) of the presiding administrative law judge (“ALJ”), granting complainant’s unopposed motion for partial termination of the investigation with respect to claim 16 of U.S. Patent No. 7,339,949 (“the ’949 patent”) and claim 3 of U.S. Patent No. 7,848,439 (“the ’439 patent”).

FOR FURTHER INFORMATION CONTACT: Cathy Chen, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-2392. 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 <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://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 19, 2018, based on a complaint filed on behalf of INVT SPE LLC (“INVT”) of San Francisco, California. 83 FR 53105 (Oct. 19, 2018). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain LTE- and 3G-compliant cellular communications devices by reason of infringement of certain claims of the ’949 patent, the ’439 patent, and U.S. Patent Nos.: 6,760,590; 7,206,587; and 7,764,711 (“the ’711 patent”). *Id.* The complaint further alleges that a domestic industry

exists. *Id.* The Commission's notice of investigation named as respondents Apple Inc. of Cupertino, California; HTC Corporation of Taoyuan City, Taiwan; HTC America, Inc. of Seattle, Washington; ZTE Corporation of Guangdong, China; and ZTE (USA) Inc. of Richardson, Texas. *Id.* at 53106. The Office of Unfair Import Investigations is also participating in the investigation. *Id.* The '711 patent has been terminated from the investigation. *See* Order No. 20 (Mar. 11, 2019), *unreviewed* by Comm'n Notice (Mar. 25, 2019).

On July 23, 2019, INVT filed an unopposed motion for partial termination of the investigation with respect to claim 16 of the '949 patent and claim 3 of the '439 patent. INVT notes in its motion that claim 16 is the only asserted claim of the '949 patent.

On July 31, 2019, the ALJ issued the subject ID granting the motion. *See* Order No. 46 at 3 (Jul. 31, 2019). The ALJ found that the requirements of Commission Rule 210.21(a)(1) have been met and that no extraordinary circumstances prevent granting the motion. *Id.* at 2-3. Accordingly, the ID terminates the '949 patent and claim 3 of the '439 patent from the investigation. *Id.* at 3. No petitions for review of the ID were filed.

The Commission has determined not to review the subject ID.

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: August 20, 2019