

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN MOBILE ELECTRONIC
DEVICES AND LAPTOP COMPUTERS**

Investigation No. 337-TA-1215

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION TERMINATING THE INVESTIGATION AS TO CERTAIN
CLAIMS, ALLEGATIONS, AND AN AFFIRMATIVE DEFENSE**

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”) (Order No. 14) of the presiding administrative law judge (“ALJ”) granting complainant’s and respondent’s joint unopposed motion to terminate the investigation as to certain claims, allegations, and an affirmative defense.

FOR FURTHER INFORMATION CONTACT: Richard P. Hadorn, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3179. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal, telephone (202) 205-1810.

SUPPLEMENTARY INFORMATION: On August 24, 2020, the Commission instituted this investigation based on a complaint filed by Maxell, Ltd. (“Maxell”) of Japan. 85 FR 52153-54 (Aug. 24, 2020). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), based on the importation into the United States, the sale for importation, or the sale within the United States after importation of certain mobile electronic devices and laptop computers by reason of infringement of certain claims of U.S. Patent Nos. 7,203,517; 8,982,086 (“the ’086 patent”); 7,199,821 (“the ’821 patent”); 10,129,590 (“the ’590 patent”); and 10,176,848 (“the ’848 patent”). *Id.* at 52153. The complaint further alleges that a domestic industry exists. *Id.* The notice of investigation named as respondent Apple Inc. (“Apple”) of Cupertino, California. *Id.* The Office of Unfair Import Investigations (“OUII”) is also named as a party. *Id.*

On February 24, 2021, the Commission determined to terminate the investigation as to the '848 patent based on withdrawal of the allegations in the complaint as to that patent. Order No. 9 (Feb. 9, 2021), *unreviewed by Comm'n Notice* (Feb. 24, 2021).

On February 18, 2021, Maxell and Apple filed a joint motion to partially terminate the investigation based on (1) Maxell's withdrawal of the infringement allegations in the complaint as to (i) claims 3 and 5-10 of the '590 patent, (ii) claim 3 of the '086 patent, and (iii) with respect to Apple's MacOS products only, all asserted claims of the '590 and '821 patents; and (2) Apple's withdrawal of its affirmative defense of lack of standing. The motion states that OUII "has indicated it does not oppose the motion." *See Mot.* at 1. OUII did not file a response to the motion.

On February 19, 2021, the ALJ issued the subject ID granting the motion. The ID finds that, as to Maxell's withdrawal request, the motion complies with the requirements of Commission Rule 210.21(a)(1) (19 CFR 210.21(a)(1)), that there is "no evidence of extraordinary circumstances preventing the withdrawal of the identified allegations of infringement," and that terminating these allegations "is in the public interest because it will narrow the disputed issues." ID at 2. The ID also finds that Apple's request is appropriate under Commission Rule 210.14(b)(2) (19 CFR 210.14(b)(2)), that there is "no evidence of extraordinary circumstances preventing the withdrawal of Apple's affirmative defense," and that such "withdrawal is in the public interest because it will narrow the disputed issues." *Id.* No petitions for review of the subject ID were filed.

The Commission has determined not to review the subject ID. The investigation is terminated as to claims 3 and 5-10 of the '590 patent; claim 3 of the '086 patent; and with respect to Apple's MacOS products only, all asserted claims of the '590 and '821 patents. Apple's affirmative defense of lack of standing is withdrawn.

The Commission vote for this determination took place on March 15, 2021.

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 15, 2021