

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN MOBILE TELEPHONES,
TABLET COMPUTERS WITH
CELLULAR CONNECTIVITY, AND
SMART WATCHES WITH CELLULAR
CONNECTIVITY, COMPONENTS
THEREOF, AND PRODUCTS
CONTAINING SAME**

Investigation No. 337-TA-1299

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION TERMINATING THE INVESTIGATION BASED ON
SETTLEMENT AND TO REVIEW AND TAKE NO POSITION ON AN INITIAL
DETERMINATION GRANTING IN PART A MOTION FOR SUMMARY
DETERMINATION CONCERNING THE ECONOMIC PRONG OF THE DOMESTIC
INDUSTRY REQUIREMENT; TERMINATION OF THE INVESTIGATION**

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. 26) of the presiding administrative law judge (“ALJ”) terminating the investigation on the basis of settlement and to review and take no position on an ID (Order No. 22) granting in part a motion for summary determination concerning the economic prong of the domestic industry requirement. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Benjamin S. Richards, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, telephone (202) 708-5453. 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 on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on February 24, 2022. 87 FR 10384 (Feb. 24, 2022). The complaint, as filed and supplemented by Ericsson Inc. of Plano, TX and Telefonaktiebolaget LM Ericsson of Stockholm, Sweden (collectively, “Ericsson”), 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 mobile telephones, tablet computers with cellular connectivity, and smart watches with cellular connectivity, components thereof, and products containing same by reason of infringement of certain claims of U.S. Patent No. 8,102,805 (“the ’805 patent”); U.S. Patent No. 9,532,355 (“the ’355 patent”); U.S. Patent No. 11,139,872 (“the ’872 patent”); and U.S. Patent No. 10,425,817 (“the ’817 patent”). *Id.* The complaint further alleges that a domestic industry exists. *Id.* The Commission’s notice of investigation named Apple, Inc. of Cupertino, CA as the sole respondent. *Id.* at 10385. The Office of Unfair Import Investigations is participating in the investigation. *Id.*

On August 22, 2022, Ericsson moved unopposed for summary determination that it satisfied the economic prong of the domestic industry requirement of section 337 with respect to each of the four asserted patents based on showings pursuant to section 337(a)(3)(A) and (B).

On November 15, 2022, the ALJ issued Order No. 22, which granted Ericsson’s motion in part. Specifically, the ID granted summary determination that Ericsson satisfied the economic prong of the domestic industry requirement for the ’805, ’355, and ’872 patents based on showings under 337(a)(3)(A) and (B). For the ’817 patent, the ID found that Ericsson satisfied the economic prong of the domestic industry requirement based on its showing under section 337(a)(3)(A) only. The ID found that a genuine issue of material fact precluded granting summary determination as to the ’817 patent based on Ericsson’s showing under section 337(a)(3)(B). No petitions for review of Order No. 22 were filed. Thereafter, the Commission extended the time to determine whether to review Order No. 22 to March 16, 2023.

On February 24, 2023, the ALJ issued Order No. 26, which granted the parties’ joint motion to terminate this investigation in its entirety on the basis of settlement between the parties. The ID found that the motion complied with the applicable Commission rules. *See* 19 CFR 210.21(b)(1). The ID also found that termination of the investigation based on settlement is not contrary to the public interest. No petitions for review of Order No. 26 were filed.

The Commission has determined not to review Order No. 26 and to review and take no position on Order No. 22. This investigation is terminated in its entirety.

The Commission vote for this determination took place on March 15, 2023.

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.

A handwritten signature in black ink, appearing to read "Lisa R. Barton", enclosed within a large, loopy oval flourish.

Lisa R. Barton
Secretary to the Commission

Issued: March 15, 2023