

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN PERSONAL
COMPUTER/CONSUMER
ELECTRONIC CONVERGENT
DEVICES, COMPONENTS THEREOF,
AND PRODUCTS CONTAINING SAME**

Inv. No. 337-TA-558

NOTICE OF INVESTIGATION

AGENCY: U.S. International Trade Commission

ACTION: Institution of investigation pursuant to 19 U.S.C. § 1337

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on December 6, 2005, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. §1337, on behalf of InterVideo Digital Technology Corporation of Taiwan. The complaint alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain personal computer/consumer electronic convergent devices, components thereof, and products containing same by reason of infringement of claims 1-10 of U.S. Patent No. 6,765,788 (“the ‘788 patent”). The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a permanent limited exclusion order and cease and desist orders.

On November 15, 2004, a petition for *ex parte* reexamination of the ‘788 patent was filed by Daniel R. McClure. Complaint, ¶ 58, p. 14, Exh. 19. On February 9, 2005, the U.S. Patent and Trademark Office (“PTO”) granted the petition and on November 30, 2005, the PTO issued a First Office Action rejecting all ten claims of the ‘788 patent. Complaint, ¶ 58, p. 14, Exh. 19. In view of the foregoing reexamination proceedings, which could result in disallowance or amendment of the asserted claims, the Commission is ordering the presiding Administrative Law Judge to issue an initial determination (“ID”) concerning whether the investigation should be stayed pending the completion of the reexamination of the ‘788 patent.

ADDRESSES: The complaint, except for any confidential information contained therein, is 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., Room 112, Washington, D.C. 20436, telephone 202-205-2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 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>.

FOR FURTHER INFORMATION CONTACT: Jay H. Reiziss, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202-205-2579.

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.10 (2005).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on December 27, 2006, ORDERED THAT –

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain personal computer/consumer electronic convergent devices, components thereof, and products containing same by reason of infringement of one or more of claims 1-10 of U.S. Patent No. 6,765,788, and whether an industry in the United States exists as required by subsection (a)(2) of section 337.

(2) The presiding Administrative Law Judge shall set the target date pursuant to Commission Rule 210.51, 19 C.F.R. § 210.51, and, as soon as is practicable, issue an ID concerning whether to stay the proceedings in light of the reexamination of the '788 patent. The Administrative Law Judge is authorized to receive briefing on the issue of whether to grant a stay of the proceedings as he deems necessary;

(3) The ID issued pursuant to the preceding paragraph (whether issuing or denying a stay) shall be deemed an ID under Rule 210.42(c) of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.42(c)) and the parties to the investigation may petition for review of the ID or the Commission may determine to review the ID on its own motion;

(4) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is –

InterVideo Digital Technology Corporation
7F, No. 19-5, Sanchong Road
Nankang District
Taipei, Taiwan 115 R.O.C.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Dell, Inc.
One Dell Way
Round Rock, Texas 78682

WinBook Computer Corporation
1555 W. Lane Avenue
Columbus, OH 43221

Cyberlink Corp.
15F, 100, Ming-Chiuan Road
Hsin-Tien City
Taipei Hsien, Taiwan, R.O.C.

Cyberlink.com Corporation
46750 Fremont Boulevard, Suite
Fremont, California 94538

(c) Jay H. Reiziss, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Suite 401, Washington, D.C. 20436, who shall be the Commission investigative attorney, party to this investigation; and

(5) For the investigation so instituted, the Honorable Robert L. Barton, Jr. is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.13. Pursuant to 19 C.F.R. §§ 201.16(d) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time

for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondents, to find the facts to be as alleged in the complaint and this notice and to enter a final determination containing such findings, and may result in the issuance of a limited exclusion order or cease and desist order or both directed against the respondent.

By order of the Commission.

Marilyn R. Abbott
Secretary to the Commission

Issued: December 29, 2005