

**UNITED STATES INTERNATIONAL TRADE COMMISSION**  
**Washington, D.C. 20436**

**In the Matter of**

**CERTAIN GPS DEVICES AND  
PRODUCTS CONTAINING SAME**

**Inv. No. 337-TA-602**  
**Modification Proceeding**

**NOTICE OF INSTITUTION OF MODIFICATION PROCEEDINGS**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has instituted a modification proceeding relating to the limited exclusion order and cease and desist orders issued at the conclusion of the above-captioned investigation.

**FOR FURTHER INFORMATION CONTACT:** Daniel E. Valencia, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, D.C. 20436, telephone (202) 205-1999. Copies of all nonconfidential 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, D.C. 20436, telephone 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<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 the matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on May 7, 2007, based on a complaint filed by Global Locate, Inc. of San Jose, California ("Global Locate"). *72 Fed. Reg. 25777* (May 7, 2007). The complaint alleged violations of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain GPS (Global Positioning System) devices and products containing the same by reason of infringement of asserted claims of various United States patents. The complaint named SiRF Technology, Inc. ("SiRF"), E-TEN Corp. ("E-TEN"), Pharos Science & Applications, Inc. ("Pharos"), MiTAC International Corporation ("MiTAC"), and Mio Technology Limited ("Mio") as respondents. The notice of investigation was subsequently amended to add Broadcom Corporation ("Broadcom") of Irvine, California as a complainant when Broadcom acquired Global Locate.

On January 15, 2009, the Commission found a violation of section 337 by SiRF, E-TEN, Pharos, MiTAC, and Mio (collectively, “Respondents”) in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain GPS devices and products containing the same. The Commission issued a limited exclusion order directed to the products of Respondents that were found to infringe the asserted patents. The Commission also issued cease-and-desist orders against SiRF, Pharos, and Mio.

On April 12, 2010, the United States Court of Appeals for the Federal Circuit affirmed the Commission’s determination in all respects in *SiRF Tech., Inc. v. U.S. Int’l Trade Comm’n*, 601 F.3d 1319 (Fed. Cir. 2010).

On April 22, 2010, Respondents filed a petition seeking modification of the Commission’s limited exclusion and cease-and-desist orders pursuant to Commission rule 210.76 (19 C.F.R. § 210.76). On May 10, 2010, Complainants and the Commission investigative attorney (“IA”) responded to Respondents’ petition. On May 17, 2010, Respondents filed a motion for leave to reply to the IA’s response with a reply attached. On May 24, 2010, Respondents filed a motion for leave to reply to the Complainants’ response with a reply attached. On June 3, 2010, Complainants opposed Respondents’ May 24, 2010, motion for leave. The Commission has determined to grant Respondents’ motions for leave.

On May 10, 2010, Complainants filed their own petition seeking modification of the Commission’s remedial orders. On May 27, 2010, the IA and Respondents filed responses to Complainants’ petition for modification of the Commission’s remedial orders.

Having examined the petitions seeking modification of the limited exclusion order and the cease-and-desist orders, and the responses thereto, the Commission determined that Respondents’ petition complies with 19 U.S.C. § 1337(k)(2) and 19 C.F.R. § 210.76(a), but that Complainants’ petition does not. Accordingly, the Commission has determined to institute a modification proceeding to consider Respondents’ petition, and has delegated the proceeding to the Chief Administrative Law Judge for assignment to a presiding administrative law judge.

While Broadcom’s allegations of changed circumstances do not warrant the institution of a modification proceeding under Commission rule 210.76, the party might find a formal enforcement proceeding under rule 210.75(b) a more suitable avenue to address its concerns. In fact, the Commission indicated as much in 2009 when it declined Broadcom’s request to initiate an informal enforcement proceeding under 210.75(a), in light of “the factual nature of the allegations” in the request. Separate from the particular dispute at issue in this investigation, the Commission is preparing to commence the third in a series of five-year surveys on the effectiveness of section 337 exclusion orders. As indicated when the Commission gave notice of its survey preparations, it will seek feedback on the experience of complainants “in policing the exclusion order, particularly with respect to any investigatory efforts and any interactions with U.S. Customs and Border Protection.” 75 *Fed. Reg.* 8398 (Feb. 24, 2010). After evaluating the survey responses, the Commission may consider whether there are any appropriate actions for the Commission to undertake to enhance the effectiveness of the orders.

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 section 210.76 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.76).

By order of the Commission.

/s/

Marilyn R. Abbott  
Secretary to the Commission

Issued: August 16, 2010