

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN 3G MOBILE HANDSETS
AND COMPONENTS THEREOF**

**Investigation No. 337-TA-613
(Remand)**

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION GRANTING IN PART MOTION OF NOKIA CORPORATION,
NOKIA INC., AND MICROSOFT MOBILE OY TO SUBSTITUTE PARTIES AND
AMEND NOTICE OF INVESTIGATION AND MOTION OF MICROSOFT MOBILE OY
TO INTERVENE FOR THE LIMITED PURPOSE OF FILING THE MOTION TO
SUBSTITUTE PARTIES AND AMEND THE NOTICE OF INVESTIGATION**

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 the presiding administrative law judge's ("ALJ") initial determination ("ID") (Order No. 49) granting in part a motion of respondents Nokia Corporation ("Nokia Corp.") and Nokia Inc. (collectively "Nokia") and non-party Microsoft Mobile OY ("MMO") to substitute parties and amend the notice of investigation and a motion of MMO to intervene for the limited purpose of filing the motion to substitute parties and amend the notice of investigation.

FOR FURTHER INFORMATION CONTACT: Megan M. Valentine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-2301. 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, S.W., Washington, D.C. 20436, telephone (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>. 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 Inv. No. 337-TA-613 on September 11, 2007, based on a complaint filed by InterDigital Communications Corp. of King of Prussia, Pennsylvania and InterDigital Technology Corp. of Wilmington, Delaware (collectively, "InterDigital") on August 7, 2007. 72 *Fed. Reg.* 51838 (Sept. 11, 2007). The complaint, as amended, alleged violations of section 337 of the Tariff Act of 1930, as amended, (19 U.S.C. § 1337) ("section 337") in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain 3G mobile handsets and components

thereof by reason of infringement of certain claims of U.S. Patent Nos. 7,117,004; 7,190,966 (“the ‘966 patent”); 7,286,847 (“the ‘847 patent”); and 6,973,579. The notice of investigation named Nokia Corporation of Espoo, Finland and Nokia Inc. of Irving, Texas (collectively, “Nokia”) as respondents. *Id.* The Office of Unfair Import Investigations was named as a participating party. *Id.*

On August 14, 2009, the ALJ issued his final ID, finding no violation of section 337. On October 16, 2009, the Commission determined to review the Final ID in part and terminated the investigation with a finding of no violation. 74 *Fed. Reg.* 55068-69 (Oct. 26, 2009).

InterDigital timely appealed the Commission’s final determination of no violation of section 337 as to all of the asserted claims of the ‘966 patent and claim 5 of the ‘847 patent to the Federal Circuit. On August 1, 2012, the U.S. Court of Appeals for the Federal Circuit (“Federal Circuit”) reversed the Commission’s construction of two claim limitations found in the appealed patents-in-suit, reversed the Commission’s determination of non-infringement as to the asserted claims of those patents, and remanded to the Commission for further proceedings. *InterDigital Commc’ns, LLC v. Int’l Trade Comm’n.*, 690 F.3d 1318 (Fed. Cir. 2012).

On February 12, 2014, the Commission issued a Notice, Order, and Opinion deciding certain aspects of the investigation and remanding other aspects to the chief administrative law judge (“ALJ”). 79 *Fed. Reg.* 9277-79 (Feb. 18, 2014); *see also* Comm’n Op. Remanding Investigation (Feb. 12, 2014); Comm’n Order Remanding Investigation (Feb. 12, 2014). On February 24, 2014, Nokia petitioned for reconsideration of the Commission’s remand Order and Opinion. On March 24, 2014, the Commission granted in part the petition for reconsideration and issued a revised remand notice, order, and opinion. 79 *Fed. Reg.* 17571-73 (Mar. 28, 2014).

On May 21, 2014, respondents Nokia Corp. and Nokia Inc. and non-party MMO filed a motion to substitute MMO for Nokia Corp. as a result of MMO’s recent acquisition of Nokia’s Devices and Services business unit and to amend the Notice of Investigation (“NOI”). MMO also filed a motion to intervene for the limited purpose of filing the motion to substitute parties and amend the NOI. On May 30, 2014, the Commission investigative attorney (“IA”) filed a response, supporting the request to amend the NOI and to add MMO as a respondent but opposing the request to terminate Nokia Corp. from the investigation. On June 2, 2014, complainants InterDigital filed a response likewise agreeing that the NOI should be amended to add MMO as a respondent but that Nokia Corp. should not be terminated from the investigation.

On June 18, 2014, the presiding ALJ issued the subject ID, granting MMO’s motion to intervene and granting in part Nokia’s and MMO’s motion to amend the NOI. Specifically, the ALJ granted the motion to add MMO as a respondent but denied the motion with respect to substituting MMO for Nokia Corp. and terminating Nokia Corp. from the investigation.

On June 26, 2014, Nokia and MMO filed a petition for review of the subject ID, arguing that the ALJ erred by granting relief not requested by either moving party and by failing to substitute MMO for Nokia Corp. and terminate Nokia Corp. from the investigation. On July 1, 2014, the IA filed a response to Nokia’s petition. On July 3, 2014, InterDigital filed a response to Nokia’s petition.

The Commission has determined not to review the subject ID. The Commission notes that pursuant to Commission Rule 210.21(c), 19 C.F.R. § 210.21(c), Nokia Corp. may enter into a consent order to terminate its participation in this investigation.

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 C.F.R. Part 210).

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', with a stylized flourish at the end.

Lisa R. Barton
Secretary to the Commission

Issued: July 18, 2014