

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN MOBILE DEVICES, AND
RELATED SOFTWARE**

Inv. No. 337-TA-750
(Remand)

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION GRANTING JOINT MOTION TO TERMINATE THE REMAND
INVESTIGATION BASED ON A SETTLEMENT AGREEMENT;
TERMINATION OF REMAND 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 initial determination (“ID”) of the presiding Administrative Law Judge, granting the joint motion of complainant Apple Inc., f/k/a Apple Computer, Inc., of Cupertino, California (“Apple”) and respondent Motorola Mobility, Inc. (“Motorola”) of Libertyville, Illinois to terminate the investigation based on a settlement agreement.

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 this investigation on November 30, 2010, based on a complaint filed by Apple. *75 Fed. Reg.* 74081-82 (Nov. 30, 2010). The complaint alleges 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 mobile devices and related software by reason of infringement of certain claims of U.S. Patent Nos. 7,812,828 (“the ‘828 Patent”); 7,663,607 (“the ‘607 Patent”); and 5,379,430.

The Commission’s notice of investigation named Motorola, Inc. n/k/a Motorola Solutions of Schaumburg, Illinois (“Motorola Solutions”) and Motorola as respondents. The Office of Unfair

Import Investigation was named as a participating party. The Commission subsequently terminated Motorola Solutions as a respondent based on withdrawal of allegations pursuant to Commission Rule 210.21(a)(1) (19 C.F.R. § 210.21(a)(1)). Notice (Aug. 31, 2011).

On January 13, 2012, the ALJ issued his final ID, finding no violation of section 337. On March 16, 2012, the Commission issued a notice, determining to review the ID in part, and on review, to affirm the ALJ's determination of no violation and to terminate the investigation. 77 *Fed. Reg.* 16860-62 (Mar. 22, 2012). On April 13, 2012, Apple timely appealed the Commission's final determination of no violation of section 337 as to the '607 and '828 patents to the United States Court of Appeals for the Federal Circuit. On August 7, 2013, the Federal Circuit affirmed-in-part, reversed-in-part, and vacated-in-part the Commission's decision and remanded for further proceedings. *Apple, Inc. v. Int'l Trade Comm'n.*, 725 F.3d 1356 (Fed. Cir. 2013). On September 6, 2013, intervenor Motorola filed a combined petition for panel rehearing and rehearing en banc concerning the panel's holding that the Commission failed to consider secondary considerations in finding claim 10 of the '607 patent invalid for obviousness. On November 8, 2013, the Court denied the petition. The mandate issued on November 15, 2013, returning jurisdiction to the Commission.

On May 6, 2014, the Commission issued a Notice and Order remanding the investigation for an ALJ to make certain findings concerning infringement, validity, and domestic industry with respect to the '607 and '828 patents. 79 *Fed. Reg.* 26993-95 (May 12, 2014).

On May 22, 2014, Apple and Motorola filed a joint motion to terminate the remand investigation based on a settlement agreement reached between Apple and Motorola's parent company, Google Inc. On May 27, 2014, the Commission investigative attorney filed a response not opposing the termination.

On May 28, 2014, the ALJ issued the subject ID, granting the joint motion for termination pursuant to section 210.21(b) of the Commission's Rules of Practice and Procedure. No petitions for review were filed.

The Commission has determined not to review the subject ID.

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.



Lisa R. Barton
Secretary to the Commission

Issued: June 16, 2014