

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

In the Matter of

**CERTAIN PORTABLE ELECTRONIC
DEVICES AND RELATED SOFTWARE**

Investigation No. 337-TA-797

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW
AN INITIAL DETERMINATION TERMINATING THE INVESTIGATION;
TERMINATION 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. 75) terminating the investigation based upon a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Sidney A. Rosenzweig, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-2532. 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 August 12, 2011, based on a complaint filed by Apple Inc. of Cupertino, California, alleging a violation 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, and the sale within the United States after importation of certain portable electronic devices and related software by reason of the infringement of five patents. *76 Fed. Reg.* 50253 (Aug. 12, 2011). The notice of investigation named as respondents HTC Corp. of Taiwan and its subsidiaries HTC America, Inc. of Bellevue, Washington, and Exedeia, Inc. of Houston, Texas.

On November 11, 2012, Apple and HTC entered into a Patent License and Settlement Agreement. On November 20, 2012, the private parties filed a joint motion to terminate the investigation based upon the settlement agreement. Appended to the motion was a confidential version of the settlement agreement, which was lightly redacted, and a public version, which was heavily redacted. On November 23, 2012, the Commission investigative attorney (“IA”) opposed the termination because the redactions did not comport with Commission Rules 201.6 and 210.21(b)(1). On November 27, 2012, the ALJ issued a non-ID order (Order No. 73) that denied the motion to terminate without prejudice. He agreed with the IA that the redactions did not comply with Commission rules. In response to Order No. 73, on December 7, 2012, the parties filed a “renewed” motion to terminate that included a fully unredacted confidential version of the settlement agreement, and a lightly redacted public version. The IA responded in support of the renewed motion, and on December 13, 2012, the ALJ granted the motion as an ID. Order No. 75. The ALJ found that termination would be in the public interest. *Id.* at 2.

No petitions for review of the ID were filed. The Commission has determined not to review the 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 sections 210.21 and 210.42-46 of the Commission’s Rules of Practice and Procedure (19 C.F.R. §§ 210.21, 210.42-46).

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', written in a cursive style.

Lisa R. Barton
Acting Secretary to the Commission

Issued: January 14, 2013