

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN DEVICES WITH SECURE
COMMUNICATION CAPABILITIES,
COMPONENTS THEREOF, AND
PRODUCTS CONTAINING SAME**

Investigation No. 337-TA-858

**COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION DENYING RESPONDENT'S MOTION FOR SANCTIONS AND
GRANTING COMPLAINANTS' MOTION TO TERMINATE THE INVESTIGATION
IN ITS ENTIRETY; 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 an initial determination ("ID") (Order No. 20) of the presiding administrative law judge ("ALJ") denying respondent's motion for sanctions and granting complainants' motion to terminate the above-referenced investigation in its entirety. The investigation is terminated in its entirety.

FOR FURTHER INFORMATION CONTACT: Jia Chen, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-4737. 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 October 22, 2012, based on a complaint filed by VirnetX, Inc. ("VirnetX") of Zephyr Cove, Nevada and Science Applications International Corporation ("SAIC") of McLean, Virginia (collectively, "Complainants"). 77 *Fed. Reg.* 64,546 (Oct. 22, 2012). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, by reason of infringement of certain claims of U.S. Patent No. 8,051,181("the '181 patent"). The complaint

further alleges the existence of a domestic industry. The notice of investigation named Apple Inc. (“Apple”) of Cupertino, California as the sole respondent.

On March 4, 2013, Complainants filed a motion seeking to terminate the investigation in its entirety based upon withdrawal of the complaint so that Complainants may focus on their district court litigation. Apple opposed the motion in part on March 14, 2013. On March 26, 2013, Apple filed a related motion seeking sanctions against complainants. On April 15, 2013, Apple withdrew its sanctions motion with respect to SAIC.

On January 22, 2013, the ALJ issued the subject ID denying Apple’s motion for sanctions and granting Complainants’ motion to terminate the investigation in its entirety. The ALJ found that no extraordinary circumstances prevent Complainants’ withdrawal of the complaint and that termination would be in the public interest. 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 sections 210.4 and 210.42 of the Commission’s Rules of Practice and Procedure (19 C.F.R. §§ 210.4 & 210.42).

By order of the Commission.

A handwritten signature in black ink, appearing to read "Lisa R. Barton". The signature is stylized and cursive.

Lisa R. Barton
Acting Secretary to the Commission

Issued: May 15, 2013