

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN DIGITAL MEDIA DEVICES,
INCLUDING TELEVISIONS, BLU-RAY
DISC PLAYERS, HOME THEATER
SYSTEMS, TABLETS AND MOBILE
PHONES, COMPONENTS THEREOF
AND ASSOCIATED SOFTWARE**

Investigation No. 337-TA-882

**NOTICE OF COMMISSION DETERMINATION NOT TO
REVIEW AN INITIAL DETERMINATION GRANTING
INTERVENOR STATUS TO GOOGLE, INC.**

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. 17) issued by the presiding administrative law judge (“ALJ”) on August 19, 2013, granting intervenor status to Google, Inc.

FOR FURTHER INFORMATION CONTACT: Robert Needham, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-5468. 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 (<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 May 7, 2013, based on a complaint filed by Black Hills Media, LLC (“BHM”). 78 Fed. Reg. 29156-57. 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 digital media devices, including televisions, blu-ray disc players, home theater systems, tablets and mobile phones, components thereof and associated software, by reason of infringement of certain claims of U.S. Patent Nos. 6,618,593; 8,028,323; 8,045,952; 8,050,652; 8,214,873; and 8,230,099. The Commission's notice of investigation named as respondents several Samsung, LG, Panasonic, Toshiba, and Sharp entities.

On July 26, 2013, Google, Inc. ("Google") moved to intervene in the investigation, stating that it had a compelling interest in this investigation because the complaint's claim charts relied upon the functionality of Google's software as incorporated on respondents' products, and Google has an interest in the continued importation and sale of products utilizing Google's software. Google further argued that the respondents would not adequately protect Google's interest because respondents would likely focus on defending their own accused products, rather than defend Google's software. The respondents all supported Google's proposed intervention.

On August 5, 2013, Staff opposed Google's motion, assuming that BHM, by opposing intervention, had chosen not to rely upon Google's products in this investigation. Staff stated that it would likely support intervention if BHM's opposition did not disclaim reliance on Google products. Later that day, BHM opposed Google's motion, arguing that the motion was untimely, that Google failed to identify an adequate interest, and that Google's interests were adequately represented by the respondents. BHM did not disclaim reliance upon Google products. Staff then supported Google's motion. *See* Prehearing Tr. at 38-40.

On August 19, 2013, the ALJ issued the subject ID granting intervenor status to Google. The ALJ found that Google's motion was timely. The ALJ further found that Google has an interest in protecting its products from the allegations presented in BHM's claim charts, and that the disposition of this investigation may as a practical matter impair Google's ability to protect that interest. The ALJ also determined that respondents may not adequately represent Google's interest. The ALJ also found that the investigation was in the early stages of discovery, so Google's intervention would not cause undue delay or prejudice the original parties' rights. No petitions for review of the subject ID 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 CFR part 210).

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: September 10, 2013