

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN CONSUMER ELECTRONICS
WITH DISPLAY AND PROCESSING
CAPABILITIES**

Investigation No. 337-TA-884

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION GRANTING RESPONDENTS' MOTION FOR SUMMARY
DETERMINATION THAT CLAIM 1 OF U. S. PATENT NO. 5,717,881 IS INVALID FOR
INDEFINITENESS**

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. 53) granting respondents' motion for summary determination that claim 1 of U. S. Patent No. 5,717,881 ("the '881 patent") is indefinite and thus invalid.

FOR FURTHER INFORMATION CONTACT: Panyin A. Hughes, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3042. 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 June 25, 2013, based on a complaint filed by Graphics Properties Holdings, Inc. of New Rochelle, New York ("GPH"). 78 Fed. Reg. 38072-3 (June 25, 2013). The complaint alleged violations 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 consumer electronics with display and processing capabilities by reason of infringement of certain claims of U. S. Patent Nos. 6,650,327 and 8,144,158 and the '881 patent. The notice of investigation named several entities as respondents but only Toshiba Corporation of Tokyo,

Japan; Toshiba America, Inc. of New York, New York; and Toshiba America Information Systems, Inc. of Irvine, California (collectively, “Respondents”) remain in the investigation.

On January 10, 2014, Respondents filed a motion for summary determination that the sole claim of the '881 patent, claim 1, is invalid for being indefinite under 35 U.S.C. § 112, second paragraph. Respondents stated that the Commission investigative attorney's *Markman* brief indicates that he supports a finding that claim 1 of the '881 patent is indefinite. On January 22, 2014, GPH opposed the motion.

On February 27, 2014, the ALJ issued the subject ID, granting Respondents' motion. 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 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
Acting Secretary to the Commission

Issued: March 31, 2014