

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN AUDIO PROCESSING
HARDWARE, SOFTWARE, AND
PRODUCTS CONTAINING THE SAME**

Investigation No. 337-TA-1026

**NOTICE OF COMMISSION DECISION TO EXTEND THE DEADLINE FOR ITS
REVIEW OF AN INITIAL DETERMINATION TERMINATING THE
INVESTIGATION AS TO INDEFINITE PATENT CLAIMS**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to extend the deadline for its review of the presiding administrative law judge's ("ALJ") initial determination ("ID") (Order No. 35) to July 13, 2017.

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 (<https://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://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 25, 2016, based on a complaint filed by Andrea Electronics Corp. of Bohemia, New York ("Andrea"). 81 *Fed. Reg.* 73418 (Oct. 25, 2016). 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 claims 1-12 and 25-37 of U.S. Patent No. 6,049,607 ("the '607 patent"); claims 1-25, 38-40, and 42-47 of U.S. Patent No. 6,363,345; and claims 1-14 of U.S. Patent No. 6,377,637 ("the '637 patent"). The Commission's notice of investigation named the following respondents: Apple Inc. of Cupertino, California ("Apple"); Samsung Electronics Co., Ltd. of Gyeonggi-do, Korea; and Samsung Electronics America, Inc. of Ridgefield Park, New Jersey (collectively, "Samsung"). The Office of Unfair Import Investigations is also a party in this investigation. On

May 25, 2017, the Commission issued a notice terminating the investigation as to the '637 patent based upon Andrea's motion to withdraw that patent from the investigation.

On April 24, 2017, the respondents filed a motion for summary determination that the asserted claims of the '607 patent are indefinite. *See* 35 U.S.C. § 112 ¶ 2 (indefiniteness); 19 CFR 210.18 (summary determination). The motion stated that "Andrea has informed Respondents that it is only asserting claims 1-4 and 8-11 of the '607 patent." Mot. 26 n.9. Andrea and the Commission investigative attorney ("IA") opposed the motion. On June 1, 2017, the ALJ granted the motion in part as the subject ID (Order No. 35). In particular, the ALJ found claim 1 to be not indefinite, but found claims 2-4 and 8-11 to be indefinite and thereby invalid. ID at 11-17. The ALJ terminated the investigation as to the indefinite patent claims. *Id.* at 17.

On June 8, 2017, Andrea moved to terminate the investigation as to the '607 patent based upon withdrawal of its allegations of infringement as to that patent. *See* 19 CFR 210.21(a)(1). Apple and Samsung did not oppose the motion, and the IA responded in support of it. On June 13, 2017, the ALJ granted that motion as an ID. Order No. 37.

No petitions for review of Order No. 35 were filed. The Commission has determined to extend the deadline for its review of Order No. 35 until July 13, 2017, in order to coincide with the Commission's deadline for review of Order No. 37.

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 Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: June 28, 2017