

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

**CERTAIN MOBILE PHONES, TABLET
COMPUTERS, SMART WATCHES, SMART
SPEAKERS, AND DIGITAL MEDIA PLAYERS,
AND PRODUCTS CONTAINING SAME**

Investigation No. 337-TA-1300

**NOTICE OF COMMISSION DECISION TO EXTEND THE DEADLINE FOR
DETERMINING WHETHER TO REVIEW AN INITIAL DETERMINATION
GRANTING SUMMARY DETERMINATION THAT THE ECONOMIC PRONG OF
THE DOMESTIC INDUSTRY REQUIREMENT IS SATISFIED**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to extend until March 24, 2023, the deadline for determining whether to review an initial determination (“ID”) (Order No. 29) of the presiding Administrative Law Judge (“ALJ”) granting summary determination that the economic prong of the domestic industry requirement is satisfied.

FOR FURTHER INFORMATION CONTACT: Houda Morad, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708-4716. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.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: On February 24, 2022, the Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (“section 337”), based on a complaint filed by Ericsson Inc. of Plano, Texas, and Telefonaktiebolaget LM Ericsson of Stockholm, Sweden (collectively, “Ericsson”). *See* 87 FR 10385-86 (Feb. 24, 2022). The complaint, as supplemented, alleges a violation of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain mobile phones, tablet computers, smart watches, smart speakers, and digital media players, and products containing same by reason of infringement of certain claims of U.S. Patent Nos. 7,151,430 (“the ’430 patent”); 9,509,273 (“the ’273 patent”); 9,853,621 (“the ’621 patent”); 7,957,770 (“the ’770 patent”); and 9,705,400 (“the ’400 patent”)

(collectively, “Asserted Patents”). *See id.* The notice of investigation names Apple, Inc. (“Apple”) of Cupertino, California, as the respondent in the investigation. *See id.* The Office of Unfair Import Investigations is also a party to the investigation. *See id.*

On December 16, 2022, the Commission partially terminated the investigation as to: (1) all asserted claims of the ’400 patent; (2) all asserted claims of the ’621 patent; (3) claims 11 and 12 of the ’430 patent; (4) claims 1 and 7 of the ’273 patent; and (5) claims 4, 8-10, 12, 15, and 16 of the ’770 patent based on withdrawal of the complaint as to those patents and claims. *See Order No. 25 (Nov. 21, 2022), unreviewed by Comm’n Notice (Dec. 16, 2022).*

On July 26, 2022, Ericsson filed a motion for summary determination that the economic prong of the domestic industry requirement is satisfied for each of the Asserted Patents (“Ericsson’s SD Motion”). On August 4, 2022, Apple filed a response to Ericsson’s SD Motion stating that Apple does not dispute Ericsson’s SD Motion to the extent it relates to the economic prong of the domestic industry requirement but that Apple disputes that Ericsson has satisfied the technical prong of the domestic industry requirement.

On November 30, 2022, the ALJ issued the subject ID (Order No. 29) granting Ericsson’s SD Motion. The ID finds that Ericsson has proven that it satisfies the economic prong under subsections 337(a)(3)(A) (significant investment in plant and equipment) and (B) (significant employment of labor or capital). *See ID at 4.* No petition for review of the subject ID was filed.

On December 12, 2022, the ALJ issued Order No. 33 granting the parties’ joint motion to stay the procedural schedule in view of a forthcoming motion to terminate the investigation based on settlement.

On February 6, 2023, Ericsson and Apple jointly moved to terminate the investigation in its entirety based on settlement. On February 22, 2023, the ALJ issued an ID (Order No. 34) granting the motion to terminate the investigation.

In view of the parties’ settlement and the stay of the procedural schedule, the Commission has determined to further extend until March 24, 2023, the deadline for determining whether to review the subject ID (Order No. 29) granting summary determination that the economic prong of the domestic industry requirement is satisfied.

The Commission’s vote for this determination took place on February 27, 2023.

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 'L.R. Barton', written in a cursive style.

Lisa R. Barton
Secretary to the Commission

Issued: March 2, 2023