

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

**CERTAIN MOBILE
ELECTRONIC DEVICES**

Investigation No. 337-TA-1312

**NOTICE OF COMMISSION DECISION NOT TO REVIEW AN INITIAL
DETERMINATION GRANTING IN PART A MOTION TO AMEND
THE COMPLAINT AND NOTICE 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. 5) of the presiding administrative law judge (“ALJ”) granting in part a motion to amend the complaint and notice of investigation.

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 May 4, 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 Maxell, Ltd. of Kyoto, Japan (“Complainant”). *See* 87 FR 26373-74 (May 4, 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 electronic devices by reason of infringement of certain claims of U.S. Patent Nos. 7,199,821; 7,324,487; 8,170,394; 8,982,086; 10,129,590; and 10,244,284. The notice of investigation names Lenovo Group Ltd. of Beijing, China; Lenovo (United States) Inc. (“Lenovo US”) of Morrisville, North Carolina; and Motorola Mobility LLC of Libertyville, Illinois (collectively, “Respondents”), as respondents in the investigation. *See id.* The Office of Unfair Import Investigations is also a party to the investigation. *See id.*

On May 6, 2022, Complainant filed a motion to amend the complaint and notice of investigation to: (1) remove domestic industry allegations based on the domestic activities of its licensee Apple Inc. (“Apple”); (2) add domestic industry allegations based on the domestic activities of respondent Lenovo US; and (3) amend the plain language description of accused products to include Lenovo-branded smartphones. On May 18, 2022, Respondents filed a response opposing in part Complainant’s motion to amend. Specifically, while Respondents do not oppose the withdrawal of domestic industry allegations based on Apple’s domestic activities, they oppose Complainant’s motion to amend in all other respects. On May 23, 2022, Complainant filed a reply in support of its motion to amend.

On June 14, 2022, the ALJ issued the subject ID (Order No. 5) pursuant to Commission Rule 210.14(b) (19 CFR 210.14(b)), granting in part Complainant’s motion to amend the complaint and notice of investigation. *See* ID at 2. Specifically, the ID grants Complainant’s request to amend the complaint and notice of investigation to include Lenovo-branded smartphones in the plain-language description of the accused products. *See id.* at 11.

Order No. 5 also grants the motion with respect to Complainant’s request to withdraw the assertions in the complaint regarding Complainant’s reliance on Apple’s domestic activities to satisfy the domestic industry requirement. *See id.* at 9. Order No. 5 also denies Complainant’s request to amend the complaint to rely upon Lenovo US’s domestic activities. *See id.* at 8-9. These aspects of Order No. 5 do not constitute an initial determination that is subject to review at this time and are therefore not currently before the Commission. 19 CFR 210.14(b); 19 CFR 210.42(c)(1).

No petition for review of the subject ID was filed.

The Commission has determined not to review the subject ID. In particular, the plain language description of the accused products in the complaint and notice of investigation is amended to recite “certain mobile electronic devices, *i.e.*, *Lenovo-branded and Motorola-branded smartphones.*”

The Commission’s vote for this determination took place on July 14, 2022.

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.



Lisa R. Barton
Secretary to the Commission

Issued: July 14, 2022