

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN MOBILE PHONES AND
TABLET COMPUTERS, ALL WITH
SWITCHABLE CONNECTIVITY**

Investigation No. 337-TA-1301

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW AN
INITIAL DETERMINATION GRANTING A JOINT MOTION TO TERMINATE
THE INVESTIGATION BASED ON A SETTLEMENT AGREEMENT;
TERMINATION OF THE 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. 38) of the presiding Administrative Law Judge (“ALJ”) granting a joint motion to terminate the investigation based on a settlement agreement. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2392. 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, based on a complaint filed by Ericsson Inc. of Plano, Texas and Telefonaktiebolaget LM Ericsson of Stockholm, Sweden (collectively, “Ericsson” or “Complainants”). 87 FR 10386-87 (Feb. 24, 2022). The complaint, as supplemented, alleged a violation of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain mobile phones and tablet computers, all with switchable connectivity, and products containing same by reason of infringement of certain claims of U.S. Patent Nos. 8,792,454 (“the ’454 patent”); 10,880,794 (“the ’794 patent”); and 8,472,999 (“the ’999 patent”). *Id.* at 10386. The complaint also alleged the existence of a domestic industry.

The notice of investigation named as a respondent Apple Inc. of Cupertino, California (“Apple”). *Id.* The Commission’s Office of Unfair Import Investigations (“OUII”) is also named as a party in this investigation. *Id.* at 10386-87.

Subsequently, the Commission terminated all asserted claims of the ’794 patent and claims 11-17 of the ’999 patent from this investigation by reason of withdrawal of the complaint allegations under 19 CFR 210.21(a). *See* Order No. 23 (Aug. 3, 2022), *unreviewed by* Notice (Sept. 1, 2022). On July 13, 2022, Ericsson filed a renewed motion (“Motion”) with an accompanying memorandum (“Memo”) seeking a summary determination that it satisfies the economic prong. The motion was granted. Order No. 15 (Jun. 28, 2022). The Commission determined to review Order No. 15 in part. Specifically, the Commission determined to review the Order No. 15’s finding that Ericsson met the economic prong of the domestic industry requirement as to the ’794 patent under 19 U.S.C. 1337(a)(3) subparagraphs (A) and (B). Comm’n Notice (Sept. 9, 2022). Because the ’794 patent was withdrawn from the investigation, the Commission determined to vacate as moot Order No. 15’s finding that Ericsson met the economic prong of the domestic industry requirement as to the ’794 patent under 19 U.S.C. 1337(a)(3) subparagraphs (A) and (B). The Commission determined not to review Order No. 15’s finding that Ericsson met the economic prong of the domestic industry requirement as to the ’454 and ’999 patents under 19 U.S.C. 1337(a)(3) subparagraph (A). *Id.*

On February 6, 2023, complainants Ericsson and respondent Apple moved pursuant to 19 CFR 210.21(b) to terminate the investigation based on a settlement agreement. On February 7, 2023, OUII filed a statement in support.

On February 16, 2023, the ALJ issued the subject ID (Order No. 38) granting the motion. The ID found that the subject motion complies with the Commission rules and that there are no extraordinary circumstances that warrant denying the motion. ID at 2. The ID also found that there is no evidence indicating that terminating this investigation based on the settlement agreement would be contrary to the public interest. *Id.*

No party petitioned for review of the ID.

The Commission has determined not to review the subject ID. Accordingly, the investigation is terminated in its entirety.

The Commission vote for this determination took place on March 20, 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 'Lisa R. Barton', written in a cursive style.

Lisa R. Barton
Secretary to the Commission

Issued: March 20, 2023