



7020-02

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-949]

Certain Audio Processing Hardware and Software and Products Containing Same;

Institution of investigation

AGENCY: U.S. International Trade Commission

ACTION: Notice

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on February 9, 2015, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Andrea Electronics Corp., of Bohemia, New York. A letter supplementing the complaint was filed on March 3, 2015. The complaint, as supplemented, alleges violations 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 audio processing hardware and software and products containing same by reason of infringement of certain claims of U.S. Patent No. 5,825,898 (“the ’898 patent”); U.S. Patent No. 6,483,923 (“the ’923 patent”); U.S. Patent No. 6,049,607 (“the ’607 patent”); U.S. Patent No. 6,363,345 (“the ’345 patent”); and U.S. Patent No. 6,377,637 (“the ’637 patent”). The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, as supplemented, except for any confidential information contained therein, is 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.,

Room 112, Washington, D.C. 20436, telephone (202) 205-2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (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>.

FOR FURTHER INFORMATION CONTACT: The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205-2560.

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2014).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on March 11, 2015, **ORDERED THAT** –

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) 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 audio processing hardware and software and products containing same by reason of infringement of one or more of claims 1-28 of the '898 patent; claims 1-16 of the '923 patent; claims 1-12 and 25-37 of the '607 patent; claims 1-25, 38-40, and 42-47 of the '345 patent; and claims 1-14 of the '637 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to Commission Rule 210.50(b)(1), 19 CFR 210.50(b)(1), the presiding administrative law judge shall take evidence or other information and hear arguments from the parties and other interested persons with respect to the public interest in this investigation, as appropriate, and provide the Commission with findings of fact and a recommended determination on this issue, which shall be limited to the statutory public interest factors, 19 U.S.C. 1337(d)(1), (f)(1), (g)(1);

(3) Notwithstanding any Commission Rules that would otherwise apply, the presiding Administrative Law Judge shall hold an early evidentiary hearing, find facts, and issue an early decision, as to whether the complainant has standing to assert each of the asserted patents. Any such decision shall be in the form of an initial determination (ID). Petitions for review of such an ID shall be due five calendar days after service of the ID; any replies shall be due three business days after service of a petition. The ID will become the Commission's final determination 30 days after the date of service of the ID unless the Commission determines to review the ID. Any such review will be conducted in accordance with Commission Rules 210.43, 210.44, and 210.45, 19 CFR 210.43, 210.44, and 210.45. The Commission expects the issuance of an early ID relating to the standing issues within 100 days of institution, except that the presiding ALJ may grant a limited extension of the ID for good cause shown. The issuance of an early ID finding complainant does not have standing to assert the asserted patents shall stay the investigation unless the Commission orders otherwise; any other decision shall not stay the investigation or delay the issuance of a final ID covering the other issues of the investigation.

(4) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

Andrea Electronics Corp.

65 Orville Drive, suite One

Bohemia, NY 11716

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Acer Inc.

8F, 88, Sec. 1, Xintai 5th Rd. Xixhi,

New Taipei City 221, Taiwan

Acer America Corp.

333 West San Carlos Street, Suite 1500

San Jose, CA 95110

ASUSTeK Computer Inc.

No. 15, Li-Te Rd., Beitou District,

Taipei 112, Taiwan

ASUS Computer International

800 Corporate Way

Fremont, CA 94539

Dell Inc.

One Dell Way

Round Rock, TX 78682

Hewlett Packard Co.

3000 Hanover Street

Palo Alto, CA 94304-1185

Lenovo Group Ltd.

Shangdi Information Industry Base

No 6 Chuang Ye Road, Haidan District

100085 Beijing, China

Lenovo Holding Co., Inc.

1009 Think Place

Morrisville, NC 27650

Lenovo (United States) Inc.

1009 Think Place

Morrisville, NC 27650

Toshiba Corp.
1-1, Shibaura 1-chome,
Toshiba Building,
Minato-Ku,
Tokyo 105-8001, Japan

Toshiba America, Inc.
1251 Avenue of the Americas
Suite 4110
New York, NY 10020

Toshiba America Information Systems, Inc.
9740 Irvine Boulevard
Irvine, CA 92618

Realtek Semiconductor Corp.
No. 2, Innovation Road II,
Hsinchu Science Park,
Hsinchu 300, Taiwan

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Suite 401, Washington, D.C. 20436; and

(5) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: March 12, 2015.

Lisa R. Barton,

Secretary to the Commission.