

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

**In the Matter of**

**CERTAIN ELECTRONIC DEVICES,  
INCLUDING HANDHELD WIRELESS  
COMMUNICATIONS DEVICES**

**Inv. Nos. 337-TA-673  
337-TA-667**

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**ORDER NO. 29C: GRANTING-IN-PART & DENYING-IN-PART NON-PARTY  
FREESCALE SEMICONDUCTOR, INC.'S MOTION TO QUASH  
OR LIMIT SUBPOENA *DUCES TECUM* AND *AD  
TESTIFICANDUM***

(August 14, 2009)

On August 3, 2009, non-party Freescale Semiconductor, Inc. ("Freescale") moved to quash or limit a subpoena *duces tecum* and *ad testificandum* served by respondents Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and Samsung Telecommunications America, LLP (collectively "Samsung"). On August 13, 2009, Samsung filed a response opposing the motion.

Freescale argues that Samsung's subpoena is overbroad and duplicative. Samsung seeks information relating to the operation, architecture, and design of Freescale's Argon LV and SCM-A11 processors. Freescale claims that it already provided the requested information when it produced a 4500 page document entitled MXC91321 Baseband Processor Reference Manual in response to a subpoena from complainant Saxon Innovations, LLC ("Saxon"). Freescale claims that the manual includes a comprehensive description of the structure and operation of the two relevant processors. In the alternative, Freescale argues that Samsung should be forced to limit

the subpoena so that Freescale is only required to produce documents and witnesses related to specific topics relevant to this litigation and not already produced by Freescale.

Samsung opposes, stating that Freescale has not produced specific critical information. Samsung explains that Saxon relies on products manufactured by its licensee Motorola to meet the domestic industry requirement for U.S. Patent No. 5,608,873 (“the ‘873 patent”). The licensed Motorola products include the Freescale Argon LV and SCM-A11 processors. Thus, the structure and operation of these processors is relevant to the issue of whether or not Saxon meets the technical prong of the domestic industry requirement. Samsung acknowledges that it has received the MXC91321 Baseband Processor Reference Manual, but it claims that the manual lacks specific information critical to the domestic industry analysis. Samsung states that it is willing to limit the subpoena to information and testimony relating to {

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The standard for determining a motion to quash a subpoena is as follows:

A party seeking to have a subpoena quashed bears the burden of proving the burdensome nature of the subpoena. The test for determining whether a subpoena should be quashed balances: (1) the relevance of the discovery sought; (2) the need of the requesting party; and (3) the potential hardship to the party responding to the subpoena.

*Certain Optical Disk Controller Chips & Chipsets & Products Containing Same, Including DVD Players & PC Optical Storage Devices*, Inv. No. 337-TA-506, Order No. 38 (Feb. 7, 2005) (citations omitted); *see also Certain Foam Footwear*, Inv. No. 337-TA-567, Order No. 16 (Aug. 2, 2006).

I find that it would be proper to limit Samsung’s subpoena, but not quash it in its entirety. Samsung states that the prior documents and testimony produced by Freescale do not fully

address the specific issue of {

} This information is relevant to the

investigation, as the operation and structure of the Argon LV and SCM-A11 processors will determine whether or not the licensed Motorola products practice the '873 patent. I find that Samsung has demonstrated a need for this relevant information, as it is entitled to gain a full understanding of the processors so that it may properly respond to Saxon's domestic industry allegations.

I find that limiting the subpoena to the specific topic outlined by Samsung is reasonable and does not present an undue burden on Freescale. Freescale will only be required to produce the documents and testimony sufficient for Samsung to understand this one identified issue. Freescale will not be required to produce information relating to all aspects of the processors, as Samsung originally sought in its subpoena.

ORDER

Freescale's motion to limit or quash is hereby GRANTED-IN-PART and DENIED-IN-PART. Samsung's July 22, 2009 subpoena *duces tecum* and *ad testificandum* to Freescale is hereby limited to the following topic: {

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Within seven (7) days of the date of this Order, each party shall submit to the Office of the Administrative Law Judges a statement as to whether or not it seeks to have any portion of this document deleted from the public version. The parties' submissions may be made by facsimile and/or hard copy by the aforementioned date.

PUBLIC

Any party seeking to have any portion of this document deleted from the public version thereof must submit to this office a copy of this document with red brackets indicating any portion asserted to contain confidential business information. The parties' submissions concerning the public version of this document need not be filed with the Commission Secretary.

**SO ORDERED.**



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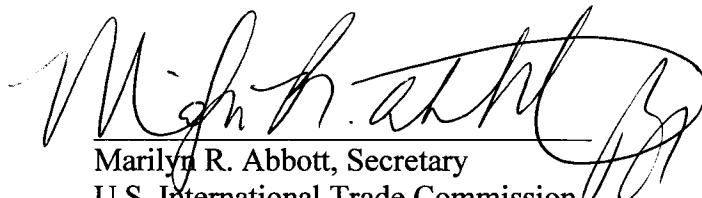
Robert K. Rogers, Jr.  
Administrative Law Judge

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**PUBLIC CERTIFICATE OF SERVICE**

I, Marilyn R. Abbott, hereby certify that the attached **ORDER** was served upon **Lisa A. Murray, Esq.**, Commission Investigative Attorney, and the following parties via first class mail and air mail where necessary on **AUG 31 2009**

  
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**PUBLIC CERTIFICATE OF SERVICE PAGE 2**

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**PUBLIC CERTIFICATE OF SERVICE - PAGE 3**

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