

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

**CERTAIN MLC FLASH MEMORY
DEVICES AND PRODUCTS
CONTAINING SAME**

Inv. No. 337-TA-683

PROCEDED BY
CITIZEN SERVICE CENTER
OCT 14 2009
10:00 AM - 6:00 PM

**ORDER NO. 5: SETTING TARGET DATE AND DATE FOR SUBMISSION OF
PROPOSED PROCEDURAL SCHEDULES**

(October 6, 2009)

The notice of investigation was published on August 27, 2009. (74 Fed. Reg. 43723). Complainant BTG International Inc. (“BTG”) proposed a fourteen month target date since the principal respondent, Samsung, and BTG have been engaged in litigation over four of the five asserted patents for nine months. Respondents Apple, Inc., ASUSTek Computer Inc., ASUS Computer International, Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., Samsung Semiconductor, Inc., Samsung Telecommunications America, LLC, Dell Inc., Lenovo Group Limited, Lenovo (United States) Inc., PNY Technologies, Inc., Sony Corporation, Sony Electronics Inc. and Transcend Information, Inc. (collectively “Covington Respondents”) and respondents Research in Motion Corporation and Research In Motion Ltd. (collectively “RIM”) propose an eighteen month target date based on the complicated technology, the large number of patents and claims, the large number of respondents and the large number of accused products. The Commission Investigative Staff (“Staff”) proposes a fifteen month target date based on the ALJ’s responsibilities in other investigations, the relatedness of the patents, the fact that the

analysis of the accused products will ultimately be focused on Samsung's flash memory chips, and the fact that the most of the respondents are represented by one law firm.

Having considered the position of the parties in their discovery statements and taking into account the ALJ's commitments in other already instituted investigations, he is setting a target date of approximately fifteen months, *i.e.*, November 30, 2010. Hence, any final initial determination should be filed no later than July 30, 2010.

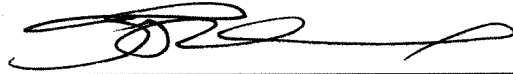
Proposed procedural schedule(s) should be received by the ALJ no later than close of business on Tuesday, October 13, 2009. Said proposed procedural schedule should include, at a minimum, dates for each of the events set forth in Ground Rule 2. Based on the target date for this investigation, and taking into consideration the ALJ's scheduling of other cases and courtroom availability, the ALJ anticipates the pre-hearing conference and tutorial, if necessary, to start at 10:00 AM on Thursday, March 18, 2010, in Hearing Room A, with the hearing to commence at 9:00 AM on Monday, March 22. The hearing shall conclude no later than Tuesday, March 30, 2009. The parties shall take these dates into consideration when proposing their procedural schedule.

The proposed schedule should include dates for three settlement meetings at a time, date, and location of the parties' choosing for the exploration of settlement, by persons of requisite authority, of some or all of the issues in the case. Unless the parties obtain the permission of the ALJ, for good cause shown, the settlement meetings should **not** occur by video-conferencing or by teleconferencing. The first one of these dates should be relatively early in the investigation; the second should be approximately midway through the period for discovery; while the last should be set for the period between the close of discovery and before the commencement of the

hearing. The parties should also include dates in the proposed schedule for filing the joint settlement conference reports.

The parties should make intensive good faith efforts to agree to a procedural schedule. It is expected that in most instances the parties should be able to submit a joint proposal on this matter.

SO ORDERED.



Theodore R. Essex
Administrative Law Judge

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CERTIFICATE OF SERVICE - PAGE 2

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CERTIFICATE OF SERVICE - PAGE 3

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