

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

**CERTAIN DIGITAL IMAGING DEVICES
AND RELATED SOFTWARE**

Inv. No. 337-TA-717

**ORDER NO. 19: INITIAL DETERMINATION GRANTING UNOPPOSED MOTION
FOR PARTIAL TERMINATION OF THE INVESTIGATION**

(December 9, 2010)

On December 8, 2010, complainant Apple, Inc. (“Apple”) filed a motion for partial termination of the investigation. (Motion Docket No. 717-021.) Apple states that respondent Eastman Kodak Company (“Kodak”) and the Commission Investigative Staff (“Staff”) do not oppose the motion.

Apple seeks to withdraw its allegations of infringement with regard to claims 2 and 6 of U.S. Patent No. 6,031,964 and claims 16-22, 31-32, and 39 of U.S. Patent No. RE38,911.

Commission Rule 210.21(a)(1) states, *inter alia*:

Any party may move at any time prior to the issuance of an initial determination on violation of section 337 of the Tariff Act of 1930 for an order to terminate an investigation in whole or in part as to any or all respondents, on the basis of withdrawal of the complaint or certain allegations contained therein...A motion for termination of an investigation based on withdrawal of the complaint shall contain a statement that there are no agreements, written or oral, express or implied between the parties concerning the subject matter of the investigation, or if there are any agreements concerning the subject matter of the investigation, all such agreements shall be identified, and if written, a copy shall be filed with the Commission along with the motion.

Pursuant to Commission Rule 210.21(a)(1), Apple states that “there are no agreements, written or oral, express or implied, between the parties concerning the subject matter of this Investigation.” (Mem at 3.) Apple asserts that partial termination of the Investigation is in the public interest. (*Id.*)

The Commission has held that “in the absence of extraordinary circumstances, termination of an investigation will be readily granted to a complainant during the prehearing stage of an investigation.” *Certain Ultrafiltration Membrane Systems, & Components Thereof, Including Ultrafiltration Membranes*, Inv. No. 337-TA-107, Commission Action & Order at 2 (Mar. 11, 1982). I find no extraordinary circumstance that prevents the partial termination of this investigation. Further, I concur with Apple that the partial termination of investigation is in the public interest, as public and private resources will be conserved. *Certain Power Supplies*, Inv. No. 337-TA-646, Order No. 18 (Jan. 5, 2009).


ORDER

Accordingly, it is my Initial Determination that Apple’s unopposed motion to partially terminate this investigation is hereby GRANTED. Claims 2 and 6 of U.S. Patent No. 6,031,964 and claims 16-22, 31-32, and 39 of U.S. Patent No. RE38,911 are hereby terminated from the investigation. This Initial Determination, along with supporting documentation, is hereby certified to the Commission.

Pursuant to 19 C.F.R. § 210.42(h), this Initial Determination shall become the determination of the Commission unless a party files a petition for review of the Initial Determination pursuant to 19 C.F.R. § 210.43(a), or the Commission, pursuant to 19 C.F.R.

§ 210.44, orders, on its own motion, a review of the Initial Determination or certain issues herein.

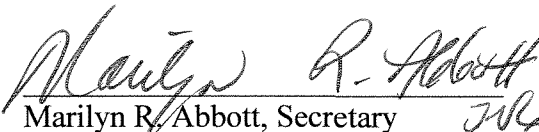
SO ORDERED.



Robert K. Rogers, Jr.
Administrative Law Judge

PUBLIC CERTIFICATE OF SERVICE

I, Marilyn R. Abbott, hereby certify that the attached **ORDER** was served upon **Aarti J. Shah, Esq.**, Commission Investigative Attorney, and the following parties via first class mail delivery on December 9, 2010


Marilyn R. Abbott, Secretary
U.S. International Trade Commission
500 E Street SW, Room 112A
Washington, D.C. 20436

FOR COMPLAINANT APPLE INC., F/K/A/ APPLE COMPUTER:

Brian F. Ferguson, Esq.
WEIL, GOTSHAL & MANGES LLP
1300 Eye Street NW
Suite 900
Washington, DC 20005

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

FOR RESPONDENT EASTMAN KODAK COMPANY:

Eric Rusnak, Esq.
K&L GATES, LLP
1601 K Street, NW
Washington, DC 20006

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

PUBLIC CERTIFICATE OF SERVICE PAGE 2

PUBLIC MAILING LIST

Heather Hall
LEXIS – NEXIS
9443 Springboro Pike
Miamisburg, OH 45342

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

Kenneth Clair
THOMAS WEST
1100 Thirteenth Street NW, Suite 200
Washington, D.C. 20005

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____