

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

**CERTAIN ELECTRONIC DEVICES,
INCLUDING MOBILE PHONES, PORTABLE
MUSIC PLAYERS, AND COMPUTERS**

Inv. No. 337-TA-701

**ORDER NO. 23 INITIAL DETERMINATION GRANTING UNOPPOSED
MOTION FOR PARTIAL TERMINATION OF THE
INVESTIGATION BY WITHDRAWAL OF THE ‘735
PATENT; AND**

**ORDER DENYING MOTION TO COMPEL DISCOVERY
WITH RESPECT TO THE ‘735 PATENT AS MOOT**

(July 21, 2010)

On July 21, 2010, Complainants filed a motion requesting a partial termination of the Investigation based upon withdrawal of one of the asserted patents: U.S. Patent No. 6,262,735 (the “‘735 patent”). (Motion Docket No. 701-041.) The same day, Complainants withdrew their motion, and filed a revised motion requesting a partial termination of the Investigation based upon withdrawal of the ‘735 patent. (Motion Docket No. 701-042.) Pursuant to Commission Rule 210.21(a), Complainants affirm that “there are no agreements, written or oral, express or implied between the parties concerning the subject matter of the investigation.” (*Id.*) According to Complainants, partial termination will streamline this Investigation, particularly in light of the significant number of contested claim terms in the ‘735 patent. (*Id.* at 1-2.) Complainants also note that Respondents and the Commission Investigative Staff have been consulted and do not oppose. (*Id.* at 3.)


The Commission's Rules permit a motion to partially terminate an investigation based upon withdrawal of certain allegations contained within the Complaint before issuance of the Initial Determination on violation of Section 337. 19 C.F.R. § 210.21(a)(1). The Administrative Law Judge may grant said motion upon such terms and conditions as he deems proper. *Id.* Further, 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, and Components Thereof, Including Ultrafiltration Membranes*, Inv. No. 337-TA-107, Comm'n Action and Order, at 2 (U.S.I.T.C., Mar. 11, 1982).

Here, the Administrative Law Judge knows of no extraordinary circumstances to prevent Complainants' partial withdrawal of their patent claims in the Complaint. Likewise, no party objects to the withdrawal of these patent claims, and granting the pending motion will result in the conservation of public and private resources. Complainants' allegations with respect to U.S. Patent Nos. 6,714,091, 6,834,181, 6,895,256, 6,518,957, 6,073,036, and 6,924,789 will remain pending in the Investigation.

It is the Administrative Law Judge's Initial Determination that Motion Docket No. 701-042 should be GRANTED and that the Investigation be partially terminated with respect to Complainants' patent claims as they relate to the '735 patent. In addition, the Administrative Law Judge further orders that Motion Docket No. 701-029, Complainants' motion to compel discovery with respect to the '735 patent, should be DENIED as moot.

This Initial Determination 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.



E. James Gildea
Administrative Law Judge

**IN THE MATTER OF CERTAIN
ELECTRONIC DEVICES, INCLUDING
MOBILE PHONES, PORTABLE MUSIC
PLAYERS, AND COMPUTERS**

337-TA-701

PUBLIC CERTIFICATE OF SERVICE

I, Marilyn R. Abbott, hereby certify that the attached **ORDER** has been served by hand upon, the Commission Investigative Attorney, **Rett Snotherly, Esq.**, and the following parties as indicated on July 21, 2010.


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

FOR COMPLAINANTS NOKIA CORPORATION AND NOKIA, INC.:

Paul Brinkman, Esq.
ALSTON & BIRD LLP
The Atlantic Building
950 F Street, NW
Washington, DC 20004
P: 202-756-3300

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

FOR RESPONDENT APPLE, INC.:

Nina S. Tallon, Esq.
**WILMER CUTLER PICKERING HALE
AND DORR LLP**
1875 Pennsylvania Ave., NW
Washington, DC 20006
P: 202-663-6000

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

**IN THE MATTER OF CERTAIN
ELECTRONIC DEVICES, INCLUDING
MOBILE PHONES, PORTABLE MUSIC
PLAYERS, AND COMPUTERS**

337-TA-701

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
THOMSON WEST
1100 13th Street, NW, Suite 200
Washington, DC 20005

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