

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

**CERTAIN AUDIO PROCESSING
HARDWARE, SOFTWARE, AND
PRODUCTS CONTAINING THE SAME**

Inv. No. 337-TA-1026

**ORDER NO. 5: SETTING TARGET DATE, HEARING DATES, AND
PRELIMINARY CONFERENCE**

(November 16, 2016)

On October 19, 2016, the Commission issued a Notice of Investigation in this matter upon a complaint alleging violations of section 337 of the Tariff Act of 1930, as amended, by reason of infringement of certain claims of 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 Commission ordered that 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, software, and products containing the same by reason of infringement of one or more of claims 1-12 and 25-37 of the ’607 patent; claims 1-25, 38-40, and 42-47 of the ’345 patent; 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;

Notice of Investigation at 2. The Investigation was instituted upon publication of the Notice of Investigation in the *Federal Register* on Tuesday, October 25, 2016. 81 Fed. Reg. 73418-19 (2016); see 19 C.F.R. § 210.10(b). The Complainant is Andrea Electronics Corporation of Bohemia, New York. Notice of Investigation at 2. The Respondents are Apple Inc. of

Cupertino, California, Samsung Electronics Co., Ltd. of Korea, and Samsung Electronics America, Inc. of Ridgefield Park, New Jersey. *Id.* at 2-3.

Based upon the issues identified in the Complaint and Notice of Investigation, and in consideration of the schedules for other ongoing investigations, the target date for completion of this Investigation shall be Monday, February 26, 2018, which is sixteen months after institution of the Investigation. *See* 19 C.F.R. § 210.51(a). Accordingly, the initial determination on alleged violation of section 337 shall be due by Thursday, October 26, 2017. *See* 19 C.F.R. § 210.42(a)(1)(i).

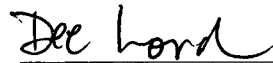
The evidentiary hearing in this Investigation shall begin following a pre-hearing conference on Monday, August 14, 2017, and it will conclude by the close of business on Friday, August 18, 2017. *See* 19 C.F.R. § 210.36. Pursuant to Ground Rule 5.2, I have determined that a *Markman* hearing would be beneficial to this Investigation, and a *Markman* hearing shall be held on Tuesday, April 11, 2017. The parties may also present technology tutorials on the day of the *Markman* hearing.

The parties shall submit a proposed procedural schedule no later than Friday, December 2, 2016, taking into account the target date and the above-identified dates for hearings. The contents for the procedural schedule are set forth in Ground Rule 2. The parties should make intensive good faith efforts to agree to a procedural schedule, and it is expected that in most instances the parties will submit a joint proposal. Any proposed procedural schedule should not be filed with the Secretary but served on the Administrative Law Judge pursuant to Ground Rule 1.3 with an electronic copy in Word format pursuant to Ground Rule 1.4.

I will hold a preliminary conference on Tuesday, December 6, 2016, at 11:00 a.m. via teleconference. The parties should be prepared to discuss any issues with respect to the ground

rules, the protective order, the procedural schedule, discovery, and any other matters that may have surfaced. Counsel for Complainant shall be responsible for the logistics of the teleconference, including arranging for a court reporter and circulating a dial-in number.

SO ORDERED.



Dee Lord
Administrative Law Judge

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER** has been served by hand upon the Commission Investigative Attorney, Whitney Winston, Esq., and the following parties as indicated, on 11/16/2016



Lisa R. Barton, Secretary
U.S. International Trade Commission
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