

**UNITED STATES INTERNATIONAL TRADE COMMISSION**  
**Washington, D.C. 20436**

**In the Matter of**

**CERTAIN MOBILE TELEPHONES AND  
WIRELESS COMMUNICATION  
DEVICES FEATURING DIGITAL  
CAMERAS, AND COMPONENTS  
THEREOF**

**Investigation No. 337-TA-703**

**NOTICE OF COMMISSION DETERMINATION TO REVIEW INITIAL  
DETERMINATION**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined to review the June 22, 2010, initial determination on claim construction (“ID”) issued by the presiding administrative law judge (“ALJ”) in the above-captioned investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“section 337”).

**FOR FURTHER INFORMATION CONTACT:** James A. Worth, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3065. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** This investigation was instituted on February 23, 2010, based upon a complaint filed on behalf of Eastman Kodak Company of Rochester, New York on January 14, 2010, and supplemented on February 4, 2010. 75 *Fed. Reg.* 8112. The complaint alleged violations of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain mobile telephones and wireless communication devices featuring digital cameras, and components thereof, that infringe certain claims of U.S. Patent No. 6,292,218. The complaint named as respondents Apple, Inc., of Cupertino, Calif.; Research in Motion, Ltd., of Ontario, Canada; and Research in Motion Corp., of Irving, Texas.

On June 22, 2010, the ALJ issued the subject ID. All parties have petitioned for review of various portions of the ID.

The Commission has determined to review the subject ID in its entirety, and to solicit briefing with respect to the issues on review. The Commission is particularly interested in briefing on the question of the legal authority for addressing the issue of claim construction as a matter for summary determination and treating the claim construction ruling as an initial determination under the Commission's rules of practice and procedure as currently written. In this connection, the parties are requested to respond to the following hypothetical analysis:

As used in rule 210.18(a), the term "issues to be determined in the investigation" can be viewed as limited to claims and affirmative defenses; a "part" of such an issue includes an element (or subpart thereof) of a claim or affirmative defense. Thus, the following could be a non-exhaustive list of examples of issues or parts thereof that are covered by rule 210.18(a): violation, importation, infringement, domestic industry (technical or economic prong), invalidity on any basis (such as anticipation or obviousness), unenforceability. Claim construction may be a necessary underpinning to the resolution of certain issues or elements, and may be part of a summary determination that addresses an issue or element. On its own, however, claim construction might not be viewed as constituting such an issue or element.

**WRITTEN SUBMISSIONS:** The parties to the investigation are requested to file written submissions on the issues under review. The submissions should be concise and thoroughly referenced to the record in this investigation, including references to exhibits and testimony. The written submissions must be filed no later than the close of business on August 5, 2010. Reply submissions must be filed no later than the close of business on August 16, 2010. No further submissions will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file with the Office of the Secretary the original and 12 true copies thereof on or before the deadlines stated above. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 C.F.R. § 201.6. Documents for which confidential treatment is granted by the Commission will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and under sections 210.42 - .46 of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.42 - .46).

By order of the Commission.

A handwritten signature in black ink, appearing to read "Marilyn R. Abbott". The signature is fluid and cursive, with a large loop at the end.

Marilyn R. Abbott  
Secretary to the Commission

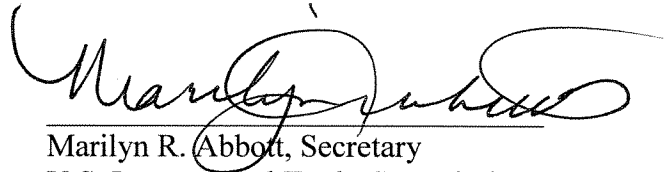
Issued: July 22, 2010

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COMMUNICATION DEVICES FEATURING DIGITAL  
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**337-TA-703**

**CERTIFICATE OF SERVICE**

I, Marilyn R. Abbott, hereby certify that the attached **NOTICE OF COMMISSION DETERMINATION TO REVIEW INITIAL DETERMINATION** has been served by hand upon the Commission Investigative Attorney, Vu Q. Bui, Esq., and the following parties as indicated, on  
July 22, 2010



Marilyn R. Abbott, Secretary  
U.S. International Trade Commission  
500 E Street, SW  
Washington, DC 20436

**On Behalf of Complainant Eastman Kodak Company:**

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

- Via Hand Delivery  
 Via Overnight Mail  
 Via First Class Mail  
 Other: \_\_\_\_\_

**On Behalf of Respondents Research In Motion, Ltd. and  
Research In Motion Corporation :**

Thomas L. Jarvis, Esq.  
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- Via Hand Delivery  
 Via Overnight Mail  
 Via First Class Mail  
 Other: \_\_\_\_\_

**On Behalf of Respondent Apple Inc.:**

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**WEIL, GOTSHAL & MANGES, LLP**  
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- Via Hand Delivery  
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