

**UNITED STATES INTERNATIONAL TRADE COMMISSION**

**Washington, D.C.**

**In the Matter of**

**CERTAIN WIRELESS  
COMMUNICATION DEVICES AND  
SYSTEMS, COMPONENTS THEREOF,  
AND PRODUCTS CONTAINING SAME**

**Inv. No. 337-TA-775**

**ORDER NO. 21: DENYING RESPONDENTS' MOTION TO COMPEL  
DOCUMENTS AND TESTIMONY SUFFICIENT TO ESTABLISH  
THE CALCULATION OF LINEX'S LICENSING-BASED  
EXPENSES, AND FOR SHORTENED TIME TO RESPOND**

(January 20, 2012)

On November 30, 2011, respondents Apple Inc. ("Apple"), Hewlett-Packard Company ("HP"), Aruba Networks, Inc. ("Aruba"), Meru Networks ("Meru"), and Ruckus Wireless ("Ruckus") (collectively "Respondents") moved to compel the production of documents and testimony from complainant Linex Technologies, Inc. ("Linex"). (Motion Docket No. 775-016.) On December 13, 2011, Linex filed a response opposing the motion. On December 12, 2011, Commission Investigative Staff ("Staff") filed a response. The Staff states that it understands that Linex intends to provide supplemental information on December 12, 2011. The Staff indicates that it supports the motion to the extent that Linex's supplementation does not render Respondents' motion moot.

On December 13, 2011, Linex filed a Motion for a One-Day Enlargement to File its Opposition to Respondents' Motion to Compel Documents and Testimony Sufficient to Establish the Calculation of Linex's Licensing-Based Expenses, and For Shortened Time to Respond One

Day After the Due Date. (Motion Docket No. 775-021.) Linex asserts that it filed its response thirteen minutes after the December 12, 2011 filing deadline due to technical difficulties with respect to Exhibit 1 of its response. There being no opposition, Motion Docket No. 775-021 is hereby GRANTED.

Respondents move to compel the production of documents and testimony from Linex sufficient to establish the figures and factors used to calculate the licensing-based expenses on which Linex intends to rely to establish a domestic industry or, in the alternative, to preclude Linex from presenting evidence of any licensing-based expenses for which it has not provided a basis for its calculation. Respondents further move to preclude Linex from relying on any expenses that were disclosed after the November 2 contention interrogatory response deadline, including expenses related to outside consultants, outside attorneys, and office equipment not previously disclosed.

Respondents' motion fails to identify the document requests or deposition topics upon which Respondents base their motion to compel. Further, Respondents fail to attach any document requests to their motion in contravention of Ground Rule 3.5 which states that "[a]ny discovery-related motion must have appended to it the pertinent parts of the discovery request and all objections and answers thereto." Order No. 2. While Respondents attach Apple and HP's First Notice of Deposition of Linex to their motion, Respondents fail to identify the deposition topics for which Mr. Gabrysiak was designated. As such, Respondents have provided no basis for me to grant their motion to compel.

The motion states that Respondents' contention interrogatories on the issue of domestic industry and related expense include at least Apple Interrogatory Nos. 46, 47, 61, 72-75, and 77-78. (Mot. Mem. at 3 n.2.) However, Respondents fail to attach Linex's responses to Apple

Interrogatory Nos. 47, 61, 72-75, and 77-78. While Respondents do attach Linex's response to Apple Interrogatory No. 46 to their motion (Mot. Ex. D), Interrogatory No. 46 is *not* a contention interrogatory. Interrogatory No. 46 states:

For Your alleged Domestic Industry, identify any and all Third Parties, including corporate entities, joint ventures, partnerships and companies, whose activities constitute part of or relate to Your alleged Domestic Industry in the Asserted Patents, and identify and explain the particular activities of each such corporate entities.

(Mot. Ex. D at 2.) Accordingly, Respondents have provided no basis for me to preclude Linex from relying on expenses that were disclosed after the November 2 contention interrogatory response deadline.

For the reasons discussed hereinabove, Motion No. 775-016 is hereby DENIED.

**SO ORDERED.**



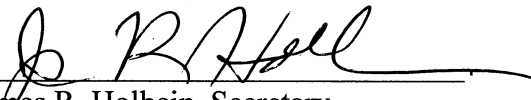
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Thomas B. Pender  
Administrative Law Judge

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DEVICES AND SYSTEMS, COMPONENTS THEREOF, AND PRODUCTS  
CONTAINING SAME**

CERTIFICATE OF SERVICE

I, James R. Holbein, hereby certify that the attached **PUBLIC ORDER NO. 21** has been served upon, **R. Whitney Winston, Esq.**, Commission Investigative Attorney, and the following parties via first class mail and air mail where necessary on January 20, **2012**.

  
James R. Holbein, Secretary  
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