

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

**In the Matter of**

**CERTAIN NETWORKING DEVICES,  
COMPUTERS, AND COMPONENTS  
THEREOF**

**Inv. No. 337-TA-1275**

**NOTICE OF INSTITUTION OF INVESTIGATION**

Institution of Investigation Pursuant to 19 U.S.C. 1337

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

**ACTION:** Notice

**SUMMARY:** Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on June 1, 2021, under section 337 of the Tariff Act of 1930, as amended, on behalf of Proven Networks, LLC of Los Angeles, California. An amended complaint was filed on June 11, 2021, and a supplement to the amended complaint was filed on July 27, 2021. The amended complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain networking devices, computers, and components thereof by reason of infringement of certain claims of U.S. Patent No. 8,687,573 (“the ’573 patent”). The amended complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

**ADDRESSES:** The complaint, as amended and supplemented, except for any confidential information contained therein, may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email [EDIS3Help@usitc.gov](mailto:EDIS3Help@usitc.gov). Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205-2000. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>.

**FOR FURTHER INFORMATION CONTACT:** Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205-2560.

**SUPPLEMENTARY INFORMATION:**

**AUTHORITY:** The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission’s Rules of Practice and Procedure, 19 C.F.R. 210.10 (2020).

**SCOPE OF INVESTIGATION:** Having considered the complaint, the U.S. International Trade Commission, on August 10, 2021, **ORDERED THAT** –

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, 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 products identified in paragraph (2) by reason of infringement of one or more of claims 1-37 of the ’573 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission’s Rules of Practice and Procedure, 19 C.F.R. 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is “networking appliances, such as switches, gateways, and application delivery controller products, that manage the flow of traffic and bandwidth for application quality of service, policy management, and security over a network, and related software”;

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of institution of investigation shall be served:

(a) The complainant is:

Proven Networks, LLC  
12424 Wilshire Blvd, 12<sup>th</sup> Floor  
Los Angeles, CA 90025

(b) The respondent is the following entity alleged to be in violation of section 337, and is the party upon which the complaint is to be served:

F5 Networks, Inc.  
801 5<sup>th</sup> Ave.  
Seattle, WA 98104

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Suite 401, Washington, D.C. 20436; and

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of institution of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.13. Pursuant to 19 C.F.R. 201.16(e) and 210.13(a), as amended in 85 Fed. Reg. 15798 (March 19, 2020), such responses will be considered by the Commission if received not later than 20 days after the date of service by the complainant of the complaint and the notice of institution of investigation. Extensions of time for submitting responses to the complaint and the notice of institution of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.



Lisa R. Barton  
Secretary to the Commission

Issued: August 10, 2021

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

**In the Matter of**

**CERTAIN NETWORKING DEVICES,  
COMPUTERS, AND COMPONENTS  
THEREOF**

**Investigation No. 337-TA-1275**

**DESIGNATION OF OUII ATTORNEY  
FOR SERVICE OF PROCESS**

The Office of Unfair Import Investigations (“OUII”) hereby designates John Shin, Esq., (202) 205-3117, john.shin@usitc.gov, as OUII’s lead attorney for service of process. It is requested that all documents served by the Commission or filed by the parties in the above-referenced investigation be served upon this attorney.

Respectfully submitted,



Margaret Macdonald, Director

**OFFICE OF UNFAIR IMPORT INVESTIGATIONS**  
U.S. International Trade Commission  
500 E Street, S.W., Suite 401  
Washington, D.C. 20436  
(202) 205-2560  
(202) 205-2158 (facsimile)

August 10, 2021

Certificate of Service – Page 1

**PUBLIC CERTIFICATE OF SERVICE**

I, Lisa R. Barton, hereby certify that the attached **INSTITUTION OF INVESTIGATION** has been served via EDIS upon the Commission Investigative Attorney, **John Shin, Esq.**, and the following parties as indicated, on **August 10, 2021**.



Lisa R. Barton, Secretary  
U.S. International Trade Commission  
500 E Street, SW, Room 112  
Washington, DC 20436

**Complainant:**

Proven Networks, LLC  
12424 Wilshire Boulevard, 12<sup>th</sup> Floor  
Los Angeles, CA 90025

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: Email Notification of Availability for Download

**On Behalf of Complainant:**

Jonathan D. Link, Esq.  
**RUSS AUGUST & KABAT**  
800 Maine Avenue SW, Suite 200  
Washington, DC 20004  
Email: [jlink@raklaw.com](mailto:jlink@raklaw.com)

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: Email Notification of Availability for Download

**Respondents:**

F5 Networks, Inc.  
801 5<sup>th</sup> Avenue  
Seattle, WA 98104

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: Service to Be Completed by Complainant

**Government Agencies:**

Lynda Marshall  
International Section, Antitrust Division  
U.S. Department of Justice

- Via Hand Delivery
- Via Express Delivery

**CERTAIN NETWORKING DEVICES, COMPUTERS,  
AND COMPONENTS THEREOF**

**Inv. No. 337-TA-1275**

Certificate of Service – Page 2

450 5th Street NW, Room 11000  
Washington, DC 20530

- Via First Class Mail
- Other: Email Notification  
of Availability for Download

U.S. Bureau of Customs and Border Protection  
Intellectual Property Rights Branch  
Mint Annex Building  
799 9<sup>th</sup> Street, NW, 7<sup>th</sup> floor  
Washington, DC 20229

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: Email Notification  
of Availability for Download

Elizabeth Kraus, Deputy Director  
International Antitrust, Office of International Affairs  
Federal Trade Commission  
600 Pennsylvania Avenue, Room 498  
Washington, DC 20580

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: Email Notification  
of Availability for Download

Dale D. Berkley, Ph.D., J.D.  
Office of the General Counsel, PHD, NIH Branch  
National Institutes of Health  
31 Center Drive  
Bldg. 31, Rm. 47  
Bethesda, MD 20892

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: Email Notification  
of Availability for Download



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UNITED STATES INTERNATIONAL TRADE COMMISSION

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WASHINGTON, DC 20436

August 10, 2021

Jonathan Link  
Russ August & Kabat  
800 Maine Ave SW, Suite 200  
Washington, DC 20024

**Re: Certain Networking Devices, Computers, and Components Thereof  
Inv. No. 337-TA-1275**

Dear Jonathan Link:

This letter is to advise you that the U.S. International Trade Commission has instituted an investigation pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). A copy of the Commission's notice of investigation is enclosed. Also enclosed is the Section 337 Mediation Program brochure. After reviewing the brochure, please sign and return the enclosed certification of receipt.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa R. Barton".

Lisa R. Barton  
Secretary

Enclosures:

1. Notice of Investigation
2. Publication Regarding the Section 337 Mediation Program
3. Certification of Receipt of Mediation Materials



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UNITED STATES INTERNATIONAL TRADE COMMISSION

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WASHINGTON, DC 20436

August 10, 2021

Proven Networks, LLC  
12424 Wilshire Blvd 12th Floor  
Los Angeles, CA 90025

**Re: Certain Networking Devices, Computers, and Components Thereof  
Inv. No. 337-TA-1275**

Dear Sir/Madam:

This letter is to advise you that the U.S. International Trade Commission has instituted an investigation pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). A copy of the Commission's notice of investigation is enclosed. Also enclosed is the Section 337 Mediation Program brochure. After reviewing the brochure, please sign and return the enclosed certification of receipt.

Sincerely,

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Lisa R. Barton  
Secretary

Enclosures:

1. Notice of Investigation
2. Publication Regarding the Section 337 Mediation Program
3. Certification of Receipt of Mediation Materials





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UNITED STATES INTERNATIONAL TRADE COMMISSION

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WASHINGTON, DC 20436

August 10, 2021

F5 Networks, Inc.  
801 5th Ave  
Seattle, WA 98104

**Re: Certain Networking Devices, Computers, and Components Thereof**  
**Inv. No. 337-TA-1275**

Dear Sir/Madam:

This letter is to advise you that the United States International Trade Commission has instituted an investigation pursuant to Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). **F5 Networks, Inc.** is a named respondent in this investigation.

We are hereby serving you with a copy of the Complaint and the Notice of Investigation issued in this matter. Enclosed is a copy of the Code of Federal Regulations. Also enclosed is a the Section 337 Mediation Program brochure. After reviewing this brochure, please sign and return the enclosed certification of receipt.

Please note that the Notice requires a response to the allegations in the Complaint and the response must be received not later than twenty (20) days after the date of service of the Complaint. Failure to file a response may result in inferences being drawn against your interests.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa R. Barton".

Lisa R. Barton  
Secretary

Enclosures:

1. Complaint
2. Notice of Investigation
3. Code of Federal Regulation
4. Publication Regarding the Section 337 Mediation Program
5. Certification of Receipt of Mediation Materials



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UNITED STATES INTERNATIONAL TRADE COMMISSION

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WASHINGTON, DC 20436

August 10, 2021

Lynda Marshall  
International Section  
Antitrust Division  
U.S. Dept of Justice  
450 5th Street NW, Room 11000  
Washington, DC 20530

**Re: Certain Networking Devices, Computers, and Components Thereof  
Inv. No. 337-TA-1275**

Dear Lynda Marshall:

This letter is to advise you that the United States International Trade Commission has instituted an investigation pursuant to Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). A copy of the Notice of Investigation is enclosed. Non-confidential copies of the Complaint and any supplements filed in the investigation will be provided upon request. Requests should be directed to Docket Services at (202) 205-1802.

If you have any questions concerning this investigation, please contact the Commission Investigative Attorney whose name and telephone number appear in the enclosed Notice.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa R. Barton". The signature is stylized and cursive.

Lisa R. Barton  
Secretary

Enclosure:

1. Notice of Investigation



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UNITED STATES INTERNATIONAL TRADE COMMISSION

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WASHINGTON, DC 20436

August 10, 2021

Dax Terrill, Chief  
Exclusion Order Enforcement Branch  
U.S. Customs and Border Protection  
Regulations and Rulings  
90 K Street NE – 10th Floor  
Washington, DC 20229-1177

**Re: Certain Networking Devices, Computers, and Components Thereof  
Inv. No. 337-TA-1275**

Dear Dax Terrill:

This letter is to advise you that the United States International Trade Commission has instituted an investigation pursuant to Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). A copy of the Notice of Investigation is enclosed. Non-confidential copies of the Complaint and any supplements filed in the investigation will be provided upon request. Requests should be directed to Docket Services at (202) 205-1802.

If you have any questions concerning this investigation, please contact the Commission Investigative Attorney whose name and telephone number appear in the enclosed Notice.

Sincerely,

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Lisa R. Barton  
Secretary

Enclosure:

1. Notice of Investigation

August 10, 2021



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UNITED STATES INTERNATIONAL TRADE COMMISSION

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WASHINGTON, DC 20436

Elizabeth Kraus, Deputy Director  
International Antitrust, Office of  
International Affairs  
Federal Trade Commission  
600 Pennsylvania Avenue, Room 498  
Washington, DC 20580

**Re: Certain Networking Devices, Computers, and Components Thereof  
Inv. No. 337-TA-1275**

Dear Elizabeth Kraus:

This letter is to advise you that the United States International Trade Commission has instituted an investigation pursuant to Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). A copy of the Notice of Investigation is enclosed. Non-confidential copies of the Complaint and any supplements filed in the investigation will be provided upon request. Requests should be directed to Docket Services at (202) 205-1802.

If you have any questions concerning this investigation, please contact the Commission Investigative Attorney whose name and telephone number appear in the enclosed Notice.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa R. Barton".

Lisa R. Barton  
Secretary

Enclosure:

1. Notice of Investigation

August 10, 2021



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UNITED STATES INTERNATIONAL TRADE COMMISSION

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WASHINGTON, DC 20436

Dale D. Berkley, Ph.D., J.D.  
Office of the General Counsel, PHD, NIH Branch  
National Institutes of Health  
31 Center Drive  
Bldg. 31, Rm. 47  
Bethesda, MD 20892

**Re: Certain Networking Devices, Computers, and Components Thereof**  
**Inv. No. 337-TA-1275**

Dear Dale Berkley:

This letter is to advise you that the United States International Trade Commission has instituted an investigation pursuant to Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). A copy of the Notice of Investigation is enclosed. Non-confidential copies of the Complaint and any supplements filed in the investigation will be provided upon request. Requests should be directed to Docket Services at (202) 205-1802.

If you have any questions concerning this investigation, please contact the Commission Investigative Attorney whose name and telephone number appear in the enclosed Notice.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa R. Barton".

Lisa R. Barton  
Secretary

Enclosure:

1. Notice of Investigation