

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

In the Matter of

**CERTAIN WIRELESS COMMUNICATION
DEVICES, PORTABLE MUSIC AND
DATA PROCESSING DEVICES,
COMPUTERS AND COMPONENTS THEREOF**

Inv. No. 337-TA-745

Notice Regarding Initial Determination on Violation of Section 337

(April 24, 2012)

On this date, I issued an initial determination on violation of section 337 and recommended determination in the above-referenced investigation. Below are the first page and the conclusions of law from said filing, which are a matter of public record. A complete public version of the Initial Determination will issue when all the parties have submitted their redactions and I have had an opportunity to review the redactions.

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DEVICES, PORTABLE MUSIC AND DATA
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INITIAL DETERMINATION ON VIOLATION OF SECTION 337

Administrative Law Judge Thomas B. Pender
(April 24, 2012)

Pursuant to the Notice of Investigation and Rule 210.42(a) of the Rules of Practice and Procedure of the United States International Trade Commission, this is my Initial Determination in the matter of Certain Wireless Communication Devices, Portable Music and Data Processing Devices, Computers and Components Thereof, Investigation No. 337-TA-745.

The Administrative Law Judge hereby determines that a violation of Section 337 of the Tariff Act of 1930, as amended, has been found in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain wireless communication devices, portable music and data processing devices, computers and components thereof, in connection with claims 1-4 of U.S. Patent No. 6,246,697. The Administrative Law Judge determines that there is no violation of Section 337 of the Tariff Act of 1930, as amended, in connection with claim 1 of U.S. Patent No. 5,636,223, claim 1 of U.S. Patent No. 6,246,862, and claim 12 of U.S. Patent No. 6,272,333. Furthermore, the Administrative Law Judge hereby determines that a domestic industry in the United States does exist that practices or exploits U.S. Patent Nos. 5,636,223, and 6,246,697, but that a domestic industry in the United States does not exist that practices or exploits U.S. Patent Nos. 6,246,862, and 6,272,333.

X. Conclusions of Law

1. The Commission has personal jurisdiction over the parties, and subject-matter jurisdiction over the accused products.
2. The importation or sale requirement of Section 337 is satisfied.
3. The '697 accused products literally infringe asserted claims 1-4 of U.S. Patent No. 6,246,697.
4. Apple induces others to infringe asserted claims 1-4 of U.S. Patent No. 6,246,697.
5. The '223 accused products literally infringe asserted claim 1 of U.S. Patent No. 5,636,223.
6. Apple induces others to infringe asserted claim 1 of U.S. Patent No. 5,636,223.
7. The '333 accused products do not infringe asserted claim 12 of U.S. Patent No. 6,272,333.
8. The '862 accused products do not infringe asserted claim 1 of U.S. Patent No. 6,246,862.
9. Asserted claims 1-4 of U.S. Patent No. 6,246,697 are not invalid under 35 U.S.C. § 102 for anticipation.
10. Asserted claims 1-4 of U.S. Patent No. 6,246,697 are not invalid under 35 U.S.C. § 103 for obviousness.
11. Asserted claims 1-4 of U.S. Patent No. 6,246,697 are not invalid for failure to satisfy the written description requirement of 35 U.S.C. § 112.
12. Asserted claims 1-4 of U.S. Patent No. 6,246,697 are not invalid for failure to satisfy the best mode requirement of 35 U.S.C. § 112.
13. U.S. Patent No. 6,246,697 is not invalid for unclean hands.
14. Asserted claim 1 of U.S. Patent No. 5,636,223 is invalid under 35 U.S.C. § 102 for anticipation.
15. Asserted claim 12 of U.S. Patent No. 6,272,333 is not invalid under 35 U.S.C. § 102 for anticipation.
16. Asserted claim 12 of U.S. Patent No. 6,272,333 is not invalid under 35 U.S.C. § 103 for obviousness.
17. Asserted claim 1 of U.S. Patent No. 6,246,862 is invalid under 35 U.S.C. § 112.

18. The domestic industry requirement has been satisfied for U.S. Patent No. 6,246,697.
19. The domestic industry requirement has been satisfied for U.S. Patent No. 5,636,223.
20. The domestic industry requirement has not been satisfied for U.S. Patent No. 6,272,333.
21. The domestic industry requirement has not been satisfied for U.S. Patent No. 6,246,862.
22. There is a violation of 19 U.S.C. § 1337(a)(1) with respect to U.S. Patent No. 6,246,697.
23. There is no violation of 19 U.S.C. § 1337(a)(1) with respect to U.S. Patent No. 5,636,223.
24. There is no violation of 19 U.S.C. § 1337(a)(1) with respect to U.S. Patent No. 6,272,333.
25. There is no violation of 19 U.S.C. § 1337(a)(1) with respect to U.S. Patent No. 6,246,862.

A handwritten signature in black ink, reading "Thomas B. Pender", followed by a horizontal line.

Thomas B. Pender
Administrative Law Judge

**IN THE MATTER OF CERTAIN WIRELESS COMMUNICATION 337-TA-745
DEVICES, PORTABLE MUSIC AND DATA PROCESSING DEVICES, COMPUTERS AND
COMPONENTS THEREOF**

CERTIFICATE OF SERVICE

I, James R. Holbein, hereby certify that the attached **PUBLIC NOTICE** has been served upon,
The Office of Unfair Imports Investigations and the following parties via first class mail and
air mail where necessary on _____, **2012**.

James R. Holbein, Secretary
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500 E Street, SW, Room 112A
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