

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

NOTICE OF INITIAL DETERMINATION ON VIOLATION OF SECTION 337

(October 26, 2017)

On this date, I have issued an initial determination on violation of section 337 in this investigation pursuant to Commission Rule 210.42(a)(1)(i).¹ For the reasons discussed herein, it is my final initial determination that there is no violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, in the importation into the United States, the sale for importation, and/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 U.S. Patent No. 6,363,345 (“the ’345 patent”).

In the initial determination, I have made the following conclusions of law:

1. The Commission has subject matter jurisdiction over this investigation, *in personam* jurisdiction over Apple, and *in rem* jurisdiction over the accused Apple audio processing hardware, software, and products containing same.

2. There has been an importation into the United States, sale for importation, or sale within the United States after importation of the accused Apple audio processing hardware,

¹ A public version shall issue within 30 days, or in the time necessary to identify and redact the confidential business information therein, pursuant to Commission Rule 210.5(f).

software, and products containing same.

3. Andrea does not have standing to assert the '345 patent without joining another party.

4. The accused Apple products do not infringe claims 4-11, 13-16, 21, 23-25, 38-40, 43, and 46 of the '345 patent.

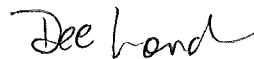
5. Claims 1, 4-7, 9-11, 13, 14, 21, and 38 of the '345 patent are not invalid as anticipated.

6. Claims 4-11, 13-17, 21, 23-25, 39, 40, 43, 46, and 47 of the '345 patent are not invalid as obvious.

7. The '345 patent is not unenforceable due to inequitable conduct or equitable estoppel.

8. A domestic industry has not been shown to exist in the United States as required by subsection (a)(2) of section 337.

SO ORDERED.



Dee Lord
Administrative Law Judge

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **NOTICE** has been served by hand upon the Commission Investigative Attorney, Whitney Winston, Esq., and the following parties as indicated, on 10/26/2017



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

On Behalf of Complainants Andrea Electronics Corp.:

Goutam Patnaik, Esq.
PEPPER HAMILTON LLP
600 Fourteenth Street, N.W.
Washington, DC 20005-2004

- Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: _____

On Behalf of Respondent Apple Inc.:

Ching-Lee Fukuda
SIDLEY AUSTIN LLP
787 Seventh Avenue
New York, NY 10019

- Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: _____