

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

**Before the Honorable Thomas B. Pender
Administrative Law Judge**

In the Matter of

CERTAIN AUDIO PROCESSING
HARDWARE AND SOFTWARE AND
PRODUCTS CONTAINING SAME

Investigation No. 337-TA-949

**ORDER NO. 36: INITIAL DETERMINATION GRANTING JOINT MOTION TO
TERMINATE INVESTIGATION WITH RESPECT TO
RESPONDENTS LENOVO HOLDING COMPANY, INC. AND
LENOVO (UNITED STATES) INC.**

(February 23, 2016)

I. INTRODUCTION

On February 18, 2016, Complainant Andrea Electronics, Inc. ("Andrea") and Respondents Lenovo Holding Company, Inc. and Lenovo (United States) Inc. (collectively "Lenovo") filed a joint motion to terminate Lenovo from the investigation based on a settlement agreement and a patent license agreement. (Motion Docket No. 949-072) Andrea and Lenovo request that the unredacted versions of the agreements be disclosed only to Andrea and Lenovo, the Commission, the Administrative Law Judge, and the Staff. Andrea and Lenovo argue that such confidential treatment is appropriate and consistent with Commission precedent, which supports withholding settlement terms of one Respondent from other Respondents, and is further consistent with the public interest which favors settlement.

On February 19, 2016, the Commission Investigative Staff filed a response supporting the motion to terminate. No party opposes the present motion to terminate.

II. STANDARDS OF LAW

Under Commission Rule 210.21(a)(2),

[a]ny party may move at any time for an order to terminate an investigation in whole or in part as to any or all respondents on the basis of a settlement, a licensing or other agreement

19 C.F.R. § 210.21(a)(2).

Commission Rule 210.21(b)(1) further specifies that the motion to terminate must include: (1) copies of the licensing or other settlement agreement; (2) any supplemental agreements; and (3) a statement that there are no other agreements, written or oral, express or implied, between the parties concerning the subject matter of the investigation. 19 C.F.R. § 210.21(b)(1). In addition, the Commission Rule requires that the motion must include a public version of any licensing or other settlement agreement containing confidential business information. *Id.*

Under Commission Rule 210.50(b)(2), I must also consider and make appropriate findings regarding the effect of the proposed termination on the public interest. 19 C.F.R. § 210.50(b)(2).

III. DISCUSSION

A. Compliance with Commission Rules

Andrea and Lenovo filed a confidential version of the motion to terminate that includes a confidential version of the Settlement Agreement and Patent License Agreement (Exhibit A1, hereto) and the Stipulation to Dismiss with Prejudice (Exhibit A2, hereto). Additionally, Andrea and Lenovo filed a public version of the motion to terminate that includes redacted versions (*i.e.*, public versions) of the Settlement Agreement and Patent License Agreement (Exhibit B1, hereto) and the Stipulation to Dismiss with Prejudice (Exhibit B2, hereto). Andrea and Lenovo state that “there are no other agreements, written or oral, express or implied, between Andrea and Lenovo

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concerning the subject matter of this Investigation.” (*See Motion* at 3.) Accordingly, I find that the requirements of Commission Rule 210.21(b)(1) have been met.

B. Public Interest

With respect to the public interest, Andrea and Lenovo argue that the termination of the investigation as to Lenovo will not adversely affect the public interest and “will not affect public health and welfare, competitive conditions of the U.S. economy, the production of like or directly competitive articles in the United States, or U.S. consumers.” (*Motion* at 4.) The Staff also argues that there are no public interest concerns weighing against termination of the investigation with respect to Lenovo. (Staff Response at 3-4.)

I have reviewed the pleadings filed in connection with the present motion to terminate and do not find any information indicating that termination of this investigation on the basis of the Settlement Agreement is contrary to the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, or U.S. consumers. To the contrary, I find that termination of Lenovo is in the public interest and will conserve public and private resources. *See, e.g., Certain Consumer Elecs., Including Mobile Phones and Tablets*, Inv. No. 337-TA-839, Order No. 35, 2013 WL 453756, *2 (Feb. 4, 2013) (“[T]ermination of litigation under these circumstances as an alternative method of dispute resolution is generally in the public interest and will conserve public and private resources.”).

C. Request for Restricted Distribution of the Unredacted Versions of the Settlement Agreement and Patent Technology and License Agreement

Andrea and Lenovo request that the unredacted confidential versions of the Settlement Agreement and Patent License Agreement be disclosed only to Andrea and Lenovo, the Commission, the Administrative Law Judge, and the Staff. I find Andrea and Lenovo’s request is appropriate under the circumstances and is consistent with Commission precedent. *See*

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Certain Machine Vision Software, Machine Vision Systems, and Products Containing the Same, Inv. No. 337-TA-680, Order No. 17 (Initial Determination), 2009 WL 3535542 (Oct. 26, 2009) (holding that counsel for non-settling respondents were not entitled to receive unreacted financial terms of settlement); *Certain Semiconductor Chips and Products Containing the Same*, Inv. No. 337-TA-753, Order No. 26, 2011 ITC LEXIS 1004, (June 20, 2011); *Certain Dynamic Random Access Memory Semiconductors and Products Containing Same, Including Memory Modules*, Inv. 337-TA-707, Order No. 10, 2010 ITC LEXIS 1125, (June 29, 2010); *Certain Automotive Multimedia Display and Navigation Systems*, Inv. No. 337-TA-657, Order No. 27, 2009 ITC LEXIS 1044, (June 23, 2009).

D. Request for Stay

On February 18, 2016, Andrea and Lenovo filed a motion requesting a stay of the Procedural Schedule (Motion Docket No. 949-071) “with respect to all deadlines regarding Lenovo and Lenovo accused products, including a stay of the service and filing of all pre-hearing and hearing requirements related to Lenovo or Lenovo products, based on the Moving Parties’ Settlement Agreement to resolve their dispute.” On February 18, 2016, my attorney-advisor communicated to the parties in the investigation via email that the request for a stay was granted. I confirm here that Motion Docket No. 949-071 is GRANTED.

IV. CONCLUSION


Accordingly, for the reasons above, it is my Initial Determination to GRANT the joint motion to terminate (Motion Docket No. 949-072). Accordingly, Lenovo is hereby terminated from this investigation.

Further, Andrea and Lenovo’s request for restricted distribution of the unredacted confidential versions of the Settlement Agreement and Patent License Agreement is GRANTED.

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This Initial Determination, along with any supporting documentation, is hereby certified to the Commission. Pursuant to 19 C.F.R. § 210.42(h), this Initial Determination shall become the determination of the Commission unless a party files a petition for review of the Initial Determination pursuant to 19 C.F.R. § 210.43(a), or the Commission, pursuant to 19 C.F.R. § 210.44, orders, on its own motion, a review of the Initial Determination or certain issues herein.

SO ORDERED.

A handwritten signature in black ink, appearing to read "Thomas B. Pender", written over a horizontal line.

Thomas B. Pender
Administrative Law Judge

EXHIBIT A1

**(Confidential Settlement and
Patent Licensing Agreement - Redacted)**

EXHIBIT A2

(Redacted)

EXHIBIT B1

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is effective as of the latest date set out on the signature page hereof (the "Effective Date"), among **Andrea Electronics Corporation**, a New York corporation having a place of business at 620 Johnson Ave., Suite 1B, Bohemia, New York 11716 ("Andrea"); and **Lenovo (United States) Inc.**, a Delaware corporation having a place of business at 1009 Think Place, Morrisville, North Carolina 27560 ("Lenovo") (Andrea and Lenovo may each be referred to as a "Party" or collectively be referred to as the "Parties").

RECITALS

WHEREAS, the Parties wish to resolve the pending litigations between them in *Andrea Electronics Corp. v. Lenovo Corporation, et al.*, in the Eastern District of New York (Case Nos. 2:14-cv-04489 and 2:15-cv-00212) the "New York Cases" and *Certain Audio Processing Hardware and Software and Products Containing Same*, in the International Trade Commission (ITC Investigation No. 337-TA-949) the "ITC Investigation" (collectively, "the "Litigations"); and

WHEREAS, Andrea has granted Lenovo and its Subsidiaries a license to the Asserted Patents, the License Agreement being attached hereto as Confidential Exhibit A.

In consideration of the mutual promises and covenants herein contained, Andrea and Lenovo agree as follows:

AGREEMENT

SECTION 1: DEFINITIONS

As used in this Agreement, the following terms shall have the following meanings which shall include both singular and plural forms in context. Additional terms may be defined elsewhere in this Agreement.

1.1. "Asserted Patents" means (a) US Patents: 5,825,898; 6,049,607; 6,363,345; 6,483,923; and 6,377,637; (b) any patents or patent applications that claim priority directly or indirectly from the foregoing patents in subsection (a), or from which priority is directly or indirectly claimed by any of the patents in subsection (a), or that have common priority with the patents in subsection (a); (c) any foreign counterparts, foreign related Patents, continuations, divisionals, continuations-in-part, extensions, substitutions, reissues, renewals and all results of oppositions, reexaminations, supplemental examinations, requests for continued examination and other review procedures of any of the foregoing in subsections (a) and (b); and (d) all patents issuing on patent applications covered by any of the foregoing subsections (a) through (c).

1.2. "Control" (including its correlative meanings, "Controlled" and "Controlling") means, with respect to an entity, the power to direct or cause the direction of the

management and policies of an entity whether through ownership of voting securities, by agreement, or otherwise.

1.3. "Entity" means a natural person, corporation, association, joint venture, partnership, company, limited liability company or other legal entity recognized in any jurisdiction in the world.

1.4. "License Agreement" shall mean the License Agreement between Andrea and Lenovo, attached as Confidential Exhibit A.

1.5. "Subsidiary" means (a) with respect to Andrea, any entity directly or indirectly Controlled by Andrea as of the Effective Date (but shall only be considered a Subsidiary during the period of time when such Control exists); and (b) with respect to Lenovo:

- i. (1) Lenovo Group Ltd., and (2) any entity directly or indirectly Controlled by Lenovo Group Ltd. as of the Effective Date (but shall only be considered a Subsidiary during the period of time when such Control exists); and/or
- ii. any entity directly or indirectly Controlled by Lenovo (United States), Inc. as of the Effective Date (but shall only be considered a Subsidiary during the period of time when such Control exists).

SECTION 2: DISMISSALS

2.1. Dismissals. Subject to the terms and conditions herein the Parties shall file the following:

- a. Within five (5) business days of the execution of the Agreement, the Parties shall jointly file a motion to terminate, substantially in the form set forth in Exhibit B, the ITC Investigation. The Parties agree that to the extent such a motion is denied either by the presiding ALJ or by the Commission, the Parties will jointly seek leave for Lenovo and Andrea to retroactively file or supplement any document after the expiration of any deadline in the ITC Investigation.
- b. Within five (5) business days of Andrea's receipt of the payment set forth in Section 3.1 of the License Agreement, the Parties shall file stipulations of dismissal with prejudice regarding all claims and counterclaims asserted against each other in the New York Cases substantially in the form set forth in Exhibit C. The Parties agree to submit to the court appropriate stipulations and proposed orders for extensions of time for all due dates so that neither Party is required to incur unnecessary expenses between the Effective Date and the date the case is dismissed.

2.2. Releases. Upon receipt of payment by Andrea as set forth in Section 3.1 of the License Agreement, Andrea and its Subsidiaries and Lenovo, its parent, and its

Subsidiaries shall release all claims, counterclaims and/or defenses against each other relating to the Asserted Patents that were brought or could have been brought of any kind and nature whatsoever, including but not limited to any claims or defenses in the Litigations, as of the Effective Date.

2.3. Compromise. The Parties acknowledge and agree that (a) this Agreement is intended solely as a compromise between the Parties and without any acknowledgment of liability, fault or damages, and (b) nothing in this Agreement shall constitute an admission by Lenovo of infringement of, nor the validity or enforceability of, any of the Asserted Patents.

2.4. No Costs. The Parties acknowledge and agree that each Party shall bear its own attorneys' fees, court costs, expenses, and any other related costs and expenses that they have incurred in connection with any and all claims previously filed against each other. The Parties also agree that they shall bear their own costs and attorneys' fees relating to or arising from the negotiation and performance of this Agreement.

SECTION 3 MISCELLANEOUS

3.1. Term. The rights granted under this Agreement, if any, shall commence upon the Effective Date.

3.2. No Other Obligations. Neither Party shall have any other responsibilities or obligations in connection with actions to enforce or defend the Asserted Patents.

3.3. Binding on Successors. This Agreement shall be binding upon and inure to the benefit of the Parties, permitted successors and assignees. Notwithstanding the preceding, it is understood that no assignment will release either Party or their Subsidiaries from any of their obligations hereunder.

SECTION 4 NOTICE

4.1. Written Notices. Any notice required or permitted by this Agreement shall be in writing and shall be sent by a reliable overnight courier service; by prepaid registered or certified mail, return receipt requested; or by facsimile to the other Party at the address below or to such other address for which such Party shall give notice hereunder. Such notice shall be deemed to have been given one (1) day after the date of sending if by overnight courier service, or five (5) days after the date of sending by registered or certified mail, or upon confirmed receipt if delivered by facsimile, excepted that notice of change of address shall be effective only upon receipt.

For Andrea: Andrea Electronics Corporation
620 Johnson Ave., Suite 1B

Bohemia, New York 11716

For Lenovo: Lenovo (United States) Inc.
 1009 Think Place
 Legal Department
 Morrisville, NC 27560
 Attn: General Counsel, re. Litigation
 Facsimile: 919.294.3342

With a copy to:

Fred I. Williams
Akin Gump Strauss Hauer & Feld LLP
600 Congress Avenue, Suite 1350
Austin, TX 78701
Telephone: 512.499.6218
Facsimile: 512.499.6290
Email: fwilliams@akingump.com

SECTION 5 GOVERNING LAW AND JURISDICTION

5.1. Governing Law. The Parties agree that this Agreement shall be considered to have been made in, and construed and interpreted in accordance with the substantive laws of the State of New York, without regard to its conflict of laws principles.

5.2. Jurisdiction. The Parties agree that all disputes and litigation regarding this Agreement, its construction, and matters connected with its performance be subject to the exclusive jurisdiction of the federal courts located in the State of New York.

SECTION 6 WARRANTIES; COVENANTS; LIMITATION OF LIABILITY

6.1. Limited Warranty. Each Party represents and warrants that it has the full authority to enter into and fully perform this Agreement, and to the extent required herein, bind their Subsidiaries as defined in Section 1.5 herein; and that this Agreement is valid and binding and enforceable in accordance with its terms.

SECTION 7 CONFIDENTIALITY

7.1. Duty to Maintain Confidentiality. Either Party may publicly disclose this Agreement, except that the License Agreement, Confidential Exhibit A, may only be disclosed in accordance with the Confidentiality obligations contained therein.

**SECTION 8
MISCELLANEOUS**

8.1. Counterparts. This Agreement may be signed in counterparts in the English language, each of which shall be deemed an original hereof, but all of which together shall constitute one and the same instrument. A faxed or e-mailed copy of the signature page shall be considered an original for purposes of this Agreement.

8.2. Entire Agreement; Construction. This is an enforceable Agreement. This Agreement, constitutes the entire agreement between the Parties and supersedes all previous communications, representations, agreements or understandings, either oral or written, between the Parties with respect to the subject matter hereof. This Agreement may be amended, supplemented or modified only by a written instrument duly executed by or on behalf of each Party hereto which specifically refers to this Agreement.

8.3. Severability; Interpretation. If any provision of this Agreement shall be determined to be invalid, illegal or unenforceable under any controlling body of law, that provision shall be reformed, construed and enforced to the maximum extent permissible; and the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

8.4. Waiver. No waiver of any breach of any provision of this Agreement shall constitute a waiver of any prior, concurrent or subsequent breach of the same or any provisions hereof, and no waiver shall be effective unless made in writing and signed by an authorized representative of the waiving Party.

8.5. Remedies. In the event of a breach of this Agreement, in addition to the right to enforce its rights under this Agreement, each Party shall retain any and all rights and/or remedies, at law or in equity.

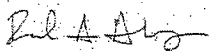
IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by duly authorized officers effective on the Effective Date.

Andrea Electronics Corporation

By: [Signature]
Name: Douglas ANDREA
Title: CEO
Date: 2/18/16



Lenovo (United States), Inc.

By: 

Name: Rachel A. Adams

Title: Vice President

Date: February 18, 2016

[REDACTED]

EXHIBIT A

[REDACTED]

PATENT LICENSE AGREEMENT

This Patent License Agreement ("Agreement") is effective as of the latest date set out on the signature page hereof (the "Effective Date"), among **Andrea Electronics Corporation**, a New York corporation having a place of business at 620 Johnson Ave., Suite 1B, Bohemia, New York 11716 ("**Andrea**" or "Licensor"); and **Lenovo (United States) Inc.**, a Delaware corporation having a place of business at 1009 Think Place, Morrisville, North Carolina 27560 ("**Lenovo**" or "Licensee") (Licensor and Licensee may each be referred to as a "Party" and collectively the "Parties").

RECITALS

WHEREAS, Licensor desires to grant and Licensee desires to acquire: a license under the Asserted Patents as well as certain other rights and releases;

In consideration of the mutual promises and covenants herein contained, Licensor and Licensee agree as follows:

AGREEMENT

SECTION 1: DEFINITIONS

As used in this Agreement, the following terms shall have the following meanings which shall include both singular and plural forms in context. Additional terms may be defined elsewhere in this Agreement.

1.1. "Andrea Patents" means: (a) all United States and foreign patents assigned to Andrea or any of its Subsidiaries on or before the Effective Date, including the Asserted Patents; (b) all pending United States and foreign patent applications assigned to Andrea or any of its Subsidiaries on or before the Effective Date, and any United States or foreign patents issuing therefrom; (c) all reexaminations, *inter partes* reviews, reissues, continuations (including continued prosecution applications), continuations-in-part, divisionals, renewals and extensions that have issued or may issue from any of the patents or patent applications identified in (a) and/or (b) above, without regard to the filing date thereof; and (d) all foreign counterparts of any of the patents or patent applications identified in (a), (b) and or (c), without regard to the filing date thereof. The United States patents and patent applications listed in **APPENDIX A** attached hereto are assigned to Licensor as of the Effective Date and are included in the definition of Andrea Patents.

1.2. "Asserted Patents" means (a) US Patents: 5,825,898; 6,049,607; 6,363,345; 6,483,923; and 6,377,637; (b) any patents or patent applications that claim priority

[REDACTED]

directly or indirectly from the foregoing patents in subsection (a), or from which priority is directly or indirectly claimed by any of the patents in subsection (a), or that have common priority with the patents in subsection (a); (c) any foreign counterparts, foreign related Patents, continuations, divisionals, continuations-in-part, extensions, substitutions, reissues, renewals and all results of oppositions, reexaminations, supplemental examinations, requests for continued examination and other review procedures of any of the foregoing in subsections (a) and (b); and (d) all patents issuing on patent applications covered by any of the foregoing subsections (a) through (c).

1.3. "Change of Control" will be deemed to have occurred as to a Party upon the earliest to occur of any of the following events, each of which will be determined independently of the others: (a) through a single transaction or series of related transactions, where such Party is subject to a merger, acquisition, consolidation, or other form of business combination through which an unrelated Entity obtains Control of the Party; or (b) as to Lenovo, a sale of all or substantially all of the assets or stock or business of Lenovo related to the Lenovo Products to a third-party Entity.

1.4. "Control" (including its correlative meanings, "Controlled" and "Controlling") means, with respect to an entity, the power to direct or cause the direction of the management and policies of an entity whether through ownership of voting securities, by agreement, or otherwise.

1.5. "Lenovo Products" means [REDACTED]

[REDACTED]

1.6. "Entity" means a natural person, corporation, association, joint venture, partnership, company, limited liability company or other legal entity recognized in any jurisdiction in the world.

[REDACTED]

1.7. "Subsidiary" means (a) with respect to Andrea, any entity directly or indirectly Controlled by Andrea as of the Effective Date (but shall only be considered a Subsidiary during the period of time when such Control exists); and (b) with respect to Lenovo:

- i. (1) Lenovo Group Ltd., and (2) any entity directly or indirectly Controlled by Lenovo Group Ltd. as of the Effective Date or at any time during the Term (but shall only be considered a Subsidiary during the period of time when such Control exists); and/or
- ii. any entity directly or indirectly Controlled by Lenovo (United States), Inc. as of the Effective Date (but shall only be considered a Subsidiary during the period of time when such Control exists).

SECTION 2: GRANT OF LICENSES, RELEASES, AND COVENANTS

2.1. Grant of License. Upon Andrea's receipt of the Payment and subject to Section 6, Andrea grants to Lenovo and its Subsidiaries a [REDACTED]

2.2. Releases.

[REDACTED]

B. Upon Andrea's receipt of the Payment, Andrea, on behalf of itself and its Subsidiaries, releases, waives, acquits, and forever discharges:

[REDACTED]

[REDACTED]

[REDACTED]

C. The releases in this Agreement include an express, informed, knowing and voluntary waiver and relinquishment to the fullest extent permitted by law. In this connection, the Parties acknowledge that they may have sustained damages, losses, costs or expenses which are presently unknown and unsuspected and that such damages, losses, costs or expenses as may have been sustained may give rise to additional damages, losses, costs or expenses in the future. The Parties hereto further acknowledge that they have negotiated this Agreement taking into account presently unsuspected and unknown claims, counterclaims, causes of action, damages, losses, costs and expenses, and the Parties hereto voluntarily and with full knowledge of its significance, expressly waive and relinquish any and all rights they may have under any state or federal statute, rule or common law principle, in law or equity, relating to limitations on general releases. The Parties voluntarily and with full knowledge of its significance, expressly waive and relinquish any and all rights they may have under any state or federal statute, rule or common law principle, in law or equity, relating to limitations on releases. Specifically, each Party hereby expressly waives any rights it may have under California Civil Code Section 1542 (or any other similar law in any jurisdiction) which provides that:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

2.5. No Implied Rights. Except as expressly set forth in this Section 2, no other rights, licenses, covenants or releases under the Asserted Patents or Andrea Patents are granted by implication, estoppel or otherwise.

SECTION 3 PAYMENT

3.1. Payment. In consideration for the rights, releases and licenses granted to Lenovo, Lenovo will pay Andrea [REDACTED]

Lenovo shall pay Andrea the Payment in one installment within thirty (30) business days

[REDACTED]

of the Effective Date. The Payment will be made by wire transfer in U.S. dollars and in immediately available funds. The Payment shall be sent to the following bank:



3.2. Taxes. To the extent that the Payment is subject to any taxes, government fees, duties, or the like imposed under the laws of any country of Licensee, Licensee shall be responsible for payment of such tax, meaning that such taxes, government fees, duties, or the like shall not be deducted from the Payment. For purposes of clarity, Licensee acknowledges and agrees that the amount of the wire transfer of the Payment to Licensor shall be no less than the full aggregate amount set forth in Section 3.1. Licensor agrees to provide any assistance and documentation that is necessary or helpful to Licensee to comply with any requests or requirements of the applicable taxing authorities including, without limitation, obtaining and delivering to Licensee a residency certificate issued by the Internal Revenue Service or other documentation certifying that Licensor is a U.S. entity and a resident of the United States of America for purposes of U.S. taxation, tax treaty forms, and any other document reasonably requested to eliminate any withholding tax requirement that might otherwise be imposed on or in connection with payment of the Payment by Licensee.

SECTION 4 TERM AND TERMINATION



[REDACTED]

[REDACTED]

SECTION 5 ENFORCEMENT or DEFENSE

5.1. No Other Obligations. Neither Licensee nor Licensor shall have any other responsibilities or obligations in connection with actions to enforce or defend the Andrea Patents.

SECTION 6 ASSIGNABILITY

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

6.3. Assignment by Licensor. Licensor may freely assign this Agreement and its rights hereunder, either expressly or through operation of law, but only on the express condition that the licenses, releases, obligations and covenants encumber and run with the Andrea Patents. Licensor shall impose all of the obligations owed by Licensor to Lenovo under this Agreement on any successor or assignee of Licensor in ownership or control of any of the Andrea Patents. Any such successor or assignee shall acknowledge its obligations to Lenovo under this Agreement before such assignment may become effective.

6.4. Binding on Successors. The Parties acknowledge and agree that the licenses, covenants not to sue and the releases granted by Andrea and its Subsidiaries hereunder shall run with the Andrea Patents and shall be binding on their respective successors and assigns. This Agreement shall be binding upon and inure to the benefit of the permitted successors and assignees, and successors and assignees of the Andrea Patents. Notwithstanding the preceding, no assignment shall release either Party or its permitted successors or assignees from any of its obligations hereunder. This Agreement and all rights, licenses, releases and covenants herein shall be binding upon and inure to the benefit of the permitted successors and assignees of either Party.

SECTION 7

NOTICE

7.1. Any notice required or permitted by this Agreement shall be in writing and shall be sent by a reliable overnight courier service; by prepaid registered or certified mail, return receipt requested; or by facsimile to the other Party at the address below or to such other address for which such Party shall give notice hereunder. Such notice shall be deemed to have been given one (1) day after the date of sending if by overnight courier service, or five (5) days after the date of sending by registered or certified mail, or upon confirmed receipt if delivered by facsimile, excepted that notice of change of address shall be effective only upon receipt.

[REDACTED]

For Licensor: Andrea Electronics Corporation
620 Johnson Ave., Suite 1B
Bohemia, New York 11716

For Licensee: Lenovo (United States) Inc.
1009 Think Place
Legal Department
Morrisville, NC 27560
Attn: General Counsel, re. Litigation
Facsimile: 919.294.3342

With a copy to:

Fred I. Williams
Akin Gump Strauss Hauer & Feld LLP
600 Congress Avenue, Suite 1350
Austin, TX 78701
Telephone: 512.499.6218
Facsimile: 512.499.6290
Email: fwilliams@akingump.com

SECTION 8 GOVERNING LAW AND JURISDICTION

8.1. Governing Law. The Parties agree that this Agreement shall be considered to have been made in, and construed and interpreted in accordance with the substantive laws of the State of New York, without regard to its conflict of laws principles.

8.2. Jurisdiction. The Parties agree that all disputes and litigation regarding this Agreement, its construction, and matters connected with its performance be subject to the exclusive jurisdiction of the federal courts located in the State of New York.

SECTION 9 WARRANTIES; COVENANTS; LIMITATION OF LIABILITY

9.1. By Andrea. Andrea represents and warrants that Andrea is the owner with all right, title and interest in and to enforcement of the Andrea Patents, and that Andrea has all rights necessary to grant any and all rights granted to Lenovo and its Subsidiaries under this Agreement including without limitation the licenses, releases and covenants granted in Section 2.

- a. NO OTHER WARRANTY. EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN SECTION 9.1, THE ANDREA PATENTS ARE PROVIDED AS-IS. EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN SECTION

[REDACTED]

9.1, NOTHING IN THIS AGREEMENT SHALL BE CONSTRUED AS A WARRANTY, EXPRESS OR IMPLIED, OR REPRESENTATION BY LICENSOR AS TO THE VALIDITY OR SCOPE OF ANY ANDREA PATENT; A WARRANTY OR REPRESENTATION THAT ANYTHING MADE, USED, SOLD, OR OTHERWISE DISPOSED OF UNDER ANY LICENSE GRANTED IN THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, THE LENOVO PRODUCTS, IS OR WILL BE FREE FROM INFRINGEMENT OF PATENTS OF THIRD PERSONS; A WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE; A REQUIREMENT THAT EITHER PARTY SHALL FILE ANY PATENT APPLICATION, SECURE ANY PATENT OR MAINTAIN ANY PATENT IN FORCE; AN OBLIGATION TO BRING OR PROSECUTE ACTIONS OR SUITS AGAINST THIRD PARTIES FOR INFRINGEMENT OF ANY PATENT; AN OBLIGATION TO FURNISH ANY MANUFACTURING OR TECHNICAL INFORMATION, OR ANY INFORMATION CONCERNING PENDING PATENT APPLICATIONS; CONFERRING A RIGHT TO USE IN ADVERTISING, PUBLICITY, OR OTHERWISE ANY TRADEMARK OR TRADE NAME OF THE PARTY FROM WHICH A LICENSE IS RECEIVED UNDER THIS AGREEMENT; OR GRANTING BY IMPLICATION, ESTOPPEL, OR OTHERWISE ANY LICENSES OR RIGHTS UNDER PATENTS OTHER THAN THE ASSERTED PATENTS. EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN SECTION 9.1, LICENSOR EXPRESSLY DISCLAIMS AND LICENSEE ACCEPTS SUCH DISCLAIMER OF ANY WARRANTY DESCRIBED IN THE IMMEDIATELY PRECEDING SENTENCE OF THIS AGREEMENT OR BY OPERATION OF LAW.

9.2. Mutual. Each Party represents and warrants to the other Party that it is duly existing, has the full power and authority to enter into and fully perform this Agreement, and to the extent required herein, bind their Subsidiaries as defined in Section 1.7, and that there are no other Persons whose consent to this Agreement or whose joinder herein is necessary to make fully effective the provisions of this Agreement.

9.3. CONSEQUENTIAL DAMAGES. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO, LOSS OF PROFITS OR DAMAGES TO A PARTY'S BUSINESS REPUTATION HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, WHETHER IN AN ACTION FOR CONTRACT, INFRINGEMENT, STRICT LIABILITY OR TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, WHETHER OR NOT THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY.

SECTION 10 CONFIDENTIALITY

[REDACTED]

10.1. Duty to Maintain Confidentiality. The terms of this Agreement are confidential. From and after the Effective Date, no Party shall disclose the terms of this Agreement without the other Party's consent (other than to its Subsidiaries subject to obligations of confidentiality at least as stringent as those contained herein) except: (a) to any governmental body having jurisdiction and specifically requiring such disclosure; (b) in response to a subpoena or as otherwise may be required by law; (c) in confidence, to a Party's directors, accountants, legal counsel, tax advisors and other financial and legal advisors; (d) as required during the course of litigation and subject to a protective order; provided, however, that any production under a protective order shall be protected under an "Outside Attorneys' Eyes Only" designation (prohibiting disclosure to in-house counsel) or higher confidentiality designation, which higher confidentiality designation, for the avoidance of doubt, must be at least as restrictive as "Outside Attorneys' Eyes Only"; (e) for the purposes of disclosure, including an 8K, in connection with the Securities and Exchange Act of 1934, as amended, the Securities Act of 1933, as amended, and any other reports or disclosures filed with the Securities and Exchange Commission or other financial regulatory authorities, or any other filings, reports or disclosures that may be required under applicable laws or regulations; (f) with obligations of confidentiality at least as stringent as those contained herein, to a counterparty in connection with a proposed merger, acquisition, financing or similar transaction or a proposed exclusive license, sale, or transfer of rights to the Licensed Patents; (g) in confidence, to an actual or prospective Lenovo customer, those terms related to, in any manner or degree, the effect of this Agreement on such Lenovo customer; and (h) as required to enforce the terms of this Agreement. When making any disclosure pursuant to paragraphs (a), (b), (d) or (e) above, the Party making any such disclosure shall take reasonable actions in an effort to minimize the nature and extent of such disclosure; and (ii) prior to any disclosure pursuant to paragraphs (a), (b), or (d), the Party making such disclosure shall notify the other Party of such disclosure. Nothing in this provision shall impose obligations on the Parties that would be contrary to or impede compliance with their obligations under any applicable law or rule, or judicial order. Notwithstanding the foregoing, the Parties agree that the Payment amount set forth in Section 3.1 shall not be disclosed to any Respondent or Intervenor in ITC Investigation 337-TA-949, so long as that ITC Investigation is pending, without either the other Party's prior written consent and/or a court order.

SECTION 11 MISCELLANEOUS

11.1. Counterparts. This Agreement may be signed in counterparts in the English language, each of which shall be deemed an original hereof, but all of which together shall constitute one and the same instrument. A faxed or e-mailed copy of the signature page shall be considered an original for purposes of this Agreement.

11.2. Entire Agreement; Construction. This is an enforceable Agreement. This Agreement, including the attached Appendices which are incorporated by reference herein, constitutes the entire agreement between the Parties and supersedes all

[REDACTED]

previous communications, representations, agreements or understandings, either oral or written, between the Parties with respect to the subject matter hereof. This Agreement may be amended, supplemented or modified only by a written instrument duly executed by or on behalf of each Party hereto which specifically refers to this Agreement.

11.3. Section Headings. The section headings used in this Agreement and the attached Appendices shall be intended for convenience only and shall not be deemed to supersede or modify any provisions.

11.4. Modification. No variation or modification of the terms of this Agreement or any waiver of any of the terms or provisions hereof shall be valid unless in writing and signed by an authorized representative of each of the Parties.

11.5. Severability; Interpretation. If any provision of this Agreement shall be determined to be invalid, illegal or unenforceable under any controlling body of law, that provision shall be reformed, construed and enforced to the maximum extent permissible; and the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

11.6. Remedies. In the event of a breach of this Agreement, in addition to the right to enforce its rights under this Agreement, each Party shall retain any and all rights and/or remedies, at law or in equity.

11.7. Waiver. No waiver of any breach of any provision of this Agreement shall constitute a waiver of any prior, concurrent or subsequent breach of the same or any provisions hereof, and no waiver shall be effective unless made in writing and signed by an authorized representative of the waiving Party.

11.8. Third Party Beneficiaries. Except as otherwise set forth in this Section 11.8, only the Parties to this Agreement and their respective Subsidiaries may enforce this Agreement against the other Party; provided, however, that with respect to the releases and covenants not to sue under Section 2 that are specified as being granted to or for the benefit of persons or Entities that are not a Party to this Agreement or their Subsidiaries, such persons or Entities may join the relevant Party or the relevant Party's Subsidiary in an action to enforce the rights or benefits that such person or Entity is to receive from the other Party under the relevant release, and/or covenant not to sue.

11.9. Agency. Nothing in this Agreement shall be construed to constitute the Parties as partners or participating in a joint venture or constitute either Party as agent of the other.

11.10. Bankruptcy. Andrea and Lenovo acknowledge and agree that this Agreement is a contract under which Andrea is a licensor to Lenovo of rights with respect to intellectual property (including, without limitation, "intellectual property" within the meaning of Section 101 of the Bankruptcy Code of the United States). Without limiting

[REDACTED]

any rights of Lenovo or its Subsidiaries under applicable law, Lenovo shall have all the rights contemplated by Section 365(n) of such Bankruptcy Code with respect to the licenses and other rights described in this Agreement.

11.11. Costs. The Parties acknowledge and agree that each Party shall bear its own attorneys' fees, court costs, expenses, and any other related costs and expenses that they have incurred in connection with any and all claims previously filed against each other. The Parties also agree that they shall bear their own costs and attorneys' fees relating to or arising from the negotiation and performance of this Agreement.

11.12. Comprehension. Each Party acknowledges to the other Party that it has been represented by independent legal counsel of its own choice throughout all of the negotiations which preceded the execution of this Agreement and that it has executed this Agreement with the consent and on the advice of such independent legal counsel. Each Party further acknowledges that it and its counsel have had adequate opportunity to make whatever investigation or inquiry they may deem necessary or desirable in connection with the subject matter of this Agreement prior to the execution hereof. Each Party has authorized and directed their respective attorneys to execute and deliver such other and further documents as may be required to carry out the terms and conditions of this Agreement.

11.13. No Admission. The Parties acknowledge and agree that (a) this Agreement is intended solely as a compromise between the Parties and without any acknowledgment of liability, fault or damages, and (b) nothing in this Agreement shall not constitute an admission by Lenovo of infringement of, nor the validity or enforceability of, any of the Asserted Patents.


11.14. Duty to Effectuate. The Parties agree to perform any lawful additional acts, including the execution of additional agreements, as are reasonably necessary to effectuate the purpose of this Agreement.

* * * * *



IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by duly authorized officers effective on the Effective Date.

Andrea Electronics Corporation

By: 

Name: Douglas ANDREA

Title: CEO

Date: 2/18/16




Lenovo (United States), Inc.

By: _____

Name: _____

Title: _____

Date: _____



IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by duly authorized officers effective on the Effective Date.

Andrea Electronics Corporation

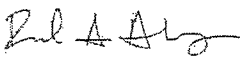
By: _____

Name: _____

Title: _____

Date: _____

Lenovo (United States), Inc.

By: 

Name: Rachel A. Adams

Title: Vice President

Date: February 18, 2016

APPENDIX A

Pat. No.	App. No.	Title	Filing Date	Issue Date
5,825,898	08/672,899	System and method for adaptive interference cancelling	27-Jun-1996	20-Oct-1998
6,049,607	09/157,035	Interference canceling method and apparatus	18-Sep-1998	11-Apr-2000
6,108,415	08/953,021	Noise cancelling improvement to a communications device	17-Oct-1997	22-Aug-2000
6,178,248	08/840,159	Dual-processing interference cancelling system and method	14-Apr-1997	23-Jan-2001
6,198,693	09/059,503	System and method for finding the direction of a wave source using an array of sensors	13-Apr-1998	06-Mar-2001
6,332,028	09/055,709	Dual-processing interference cancelling system and method	07-Apr-1998	18-Dec-2001
6,363,345	09/252,874	System, method and apparatus for cancelling noise	18-Feb-1999	26-Mar-2002
6,377,637	09/614,875	Sub-band exponential smoothing noise canceling system	12-Jul-2000	23-Apr-2002
6,483,923	09/130,923	System and method for adaptive interference cancelling	06-Aug-1998	19-Nov-2002
6,594,367	09/427,410	Super directional beamforming design and implementation	25-Oct-1999	15-Jul-2003

Pat. No.	App. No.	Title	Filing Date	Issue Date
7,319,762	11/482,351	Headset with flashing light emitting diodes	05-Jul-2006	15-Jan-2008
8,150,054	12/332,959	Adaptive filter in a sensor array system	11-Dec-2008	03-Apr-2012
8,542,843	12/429,623	Headset with integrated stereo array microphone	24-Apr-2009	24-Sep-2013
8,767,973	13/291,565	Adaptive filter in a sensory array system	8-Nov-2011	1-Jul-2014
8,818,000	12/916,470	System, device, and method utilizing an integrated stereo array microphone	29-Oct-2010	26-Aug-2014
	14/319,707	Steerable sensor array system with video input	30-Jun-2014	
	14/463,018	System, device, and method utilizing an integrated stereo array microphone	19-Aug-2014	

APPENDIX B



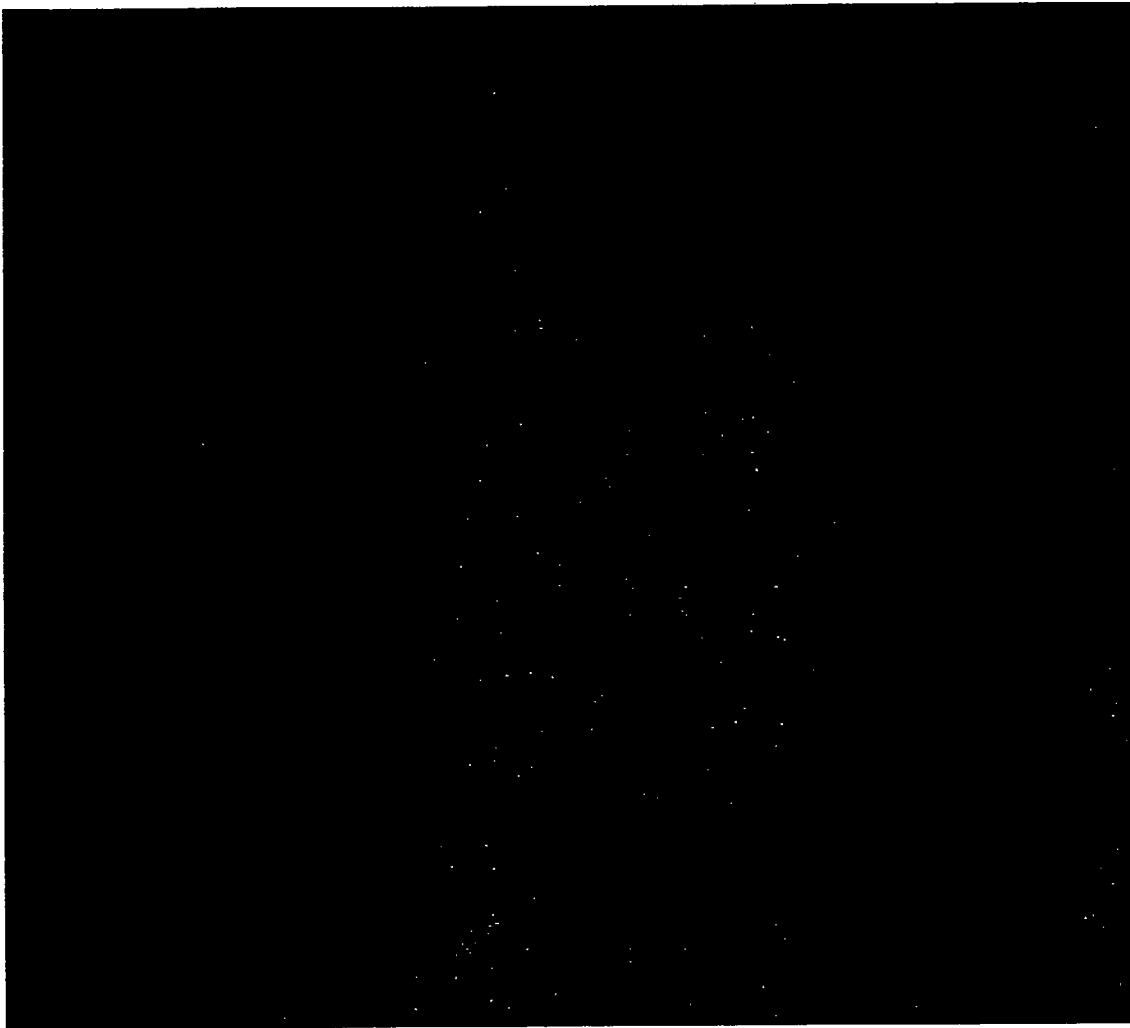


EXHIBIT B2

EXHIBIT C

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

ANDREA ELECTRONICS CORPORATION,

Plaintiff,

v.

LENOVO CORPORATION, et al.,

Defendants.

CIVIL ACTION

NOS. 2:14-cv-04489 and

2:15-cv-00212

STIPULATION TO DISMISS WITH PREJUDICE

Pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, Plaintiff Andrea Electronics Corp. ("Andrea") and Defendants Lenovo Holding Company, Inc. and Lenovo (United States) Inc. (together, "Lenovo"), by and through their counsel of record and pursuant to the terms of a confidential agreement by and between them, hereby stipulate and agree that:

(1) All claims and counterclaims between Andrea and Lenovo shall be dismissed with prejudice; and

(2) All costs and expenses relating to the claims between Andrea and Lenovo in these litigations (including attorney and expert fees and expenses) shall be borne solely by the party incurring same.

A proposed Order accompanies this motion.

Dated:

/s/ _____

Goutam Patnaik
Tuhin Ganguly
David J. Shaw
Kelly E. Rose
Pepper Hamilton LLP
Hamilton Square
600 Fourteenth Street, N.W.
Washington, DC 20005 2004
Tel: 202 220 1200
Fax: 202 220 1665

William D. Belanger
Frank D. Liu
Gwendolyn E. Tawresey
Ryan C. Deck
Pepper Hamilton LLP
19th Floor, High Street Tower
125 High Street
Boston, MA 02110 2736
Tel: 617 204 5100
Fax: 617 204 5150

*Counsel for Plaintiff
Andrea Electronics Corp.*

/s/ _____

*Counsel for Defendants Lenovo Holding
Company, Inc. and Lenovo (United States) Inc.*

DRAFT

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

ANDREA ELECTRONICS CORPORATION,

Plaintiff,

v.

LENOVO CORPORATION, et al.,

Defendants.

CIVIL ACTION

NOS. 2:14-cv-04489 and

2:15-cv-00212

[PROPOSED] ORDER DISMISSING ALL CLAIMS WITH PREJUDICE

Before the Court is Plaintiff Andrea Electronics Corp.'s ("Andrea's") and Defendants Lenovo Holding Company, Inc. and Lenovo (United States) Inc. (together "Lenovo") Stipulation to Dismiss With Prejudice. The Court finds that dismissal with prejudice should be GRANTED, and orders as follows:

All claims and counterclaims between Andrea and Lenovo in these litigations shall be dismissed with prejudice.

All costs and expenses relating to the claims between Andrea and Lenovo in these litigations (including attorney and expert fees and expenses) shall be borne solely by the party incurring same.

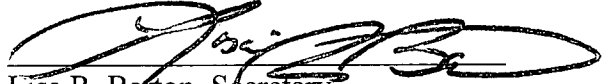
IT IS SO ORDERED.

**IN THE MATTER OF CERTAIN AUDIO PROCESSING
HARDWARE AND SOFTWARE PRODUCTS CONTAINING
SAME**

337-TA-949

CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **PUBLIC INITIAL DETERMINATION
ORDER NO. 36** has been served upon the **Commission Investigative Attorney, Lisa Murray,
Esq.**, and the following parties as indicated on FEB 23 2016.


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

FOR COMPLAINANTS ANDREA ELECTRONICS CORP.:

Goutam Patnaik, Esq.
PEPPER HAMILTON LLP
600 Fourteenth Street, NW
Washington, DC 20005

() Via Hand Delivery
(☒) Via Express Delivery
() Via First Class Mail
() Other: _____

FOR RESPONDENT ACER INC. & ACER AMERICA CORPORATION:

Craig Kaufman, Esq.
TECHKNOWLEDGE LAW GROUP LLP
100 Marine Parkway, Suite 200
Redwood Shores, CA 94065

() Via Hand Delivery
(☒) Via Express Delivery
() Via First Class Mail
() Other: _____

FOR RESPONDENT DELL INC.

Scott Denko, Esq.
DENKO COBURN LAUFF LLP
3811 Bee Caves Road, Suite 204
Austin, TX 78746

() Via Hand Delivery
(☒) Via Express Delivery
() Via First Class Mail
() Other: _____

FOR RESPONDENT HEWLETT PACKARD CO.

Eric S. Namrow, Esq.
MORGAN, LEWIS & BOCKIUS LLP
1111 Pennsylvania Avenue N.W.
Washington, DC 20004

() Via Hand Delivery
(☒) Via Express Delivery
() Via First Class Mail
() Other: _____

**IN THE MATTER OF CERTAIN AUDIO PROCESSING
HARDWARE AND SOFTWARE PRODUCTS CONTAINING
SAME**

337-TA-949

FOR RESPONDENTS LENOVO HOLDING CO., INC. & LENOVO (United States) INC.

Fred Williams, Esq.
AKIN GUMP STRAUSS HAUER & FELD LLP
600 Congress Avenue , Suite 1350
Austin, TX 78701

() Via Hand Delivery
(☒) Via Express Delivery
() Via First Class Mail
() Other: _____

**FOR RESPONDENTS TOSHIBA CORPORATION & TOSHIBA AMERICA
INFORMATION SYSTEMS, INC.**

Douglas F. Stewart, Esq.
BRACEWELL & GIULIANI LLP
701 Fifth Avenue, Suite 6200
Seattle, WA 98104

() Via Hand Delivery
(☒) Via Express Delivery
() Via First Class Mail
() Other: _____

**FOR RESPONDENT REALTEK SEMICONDUCTOR CORP., ASUSTeK COMPUTER
INC. & ASUS COMPUTER INTERNATIONAL**

Li Chen, Esq.
CHEN MALIN LLP
1700 Pacific Avenue, Suite 2400
Dallas, TX 75201

() Via Hand Delivery
(☒) Via Express Delivery
() Via First Class Mail
() Other: _____

FOR NON-PARTY CONEXANT SYSTEMS, INC.

James B. Altman, Esq.
FOSTER, MURPHY, ALTMAN & NICKEL, PC
1899 L Street NW, Suite 1150
Washington, DC 20036

() Via Hand Delivery
(☒) Via Express Delivery
() Via First Class Mail
() Other: _____

FOR NON-PARTY WAVES AUDIO LTD.

J. Scott Denko, Esq.
DENKO COBURN LAUFF LLP
3811 Bee Caves Road, Suite 204
Austin, TX 78746

() Via Hand Delivery
(☒) Via Express Delivery
() Via First Class Mail
() Other: _____