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By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

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## INTERNATIONAL TRADE COMMISSION

[Investigation No. 332-507]

### Advice Concerning Possible Modifications to the U.S. Generalized System of Preferences, 2009 Review of Additions and Removals

**AGENCY:** United States International Trade Commission.

**ACTION:** Institution of investigation and scheduling of hearing.

**SUMMARY:** Following receipt of a request on October 16, 2009 from the United States Trade Representative (USTR) under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332 (g)), the U.S. International Trade Commission (Commission) instituted investigation No. 332-507, *Advice Concerning Possible Modifications to the U.S. Generalized System of Preferences, 2009 Review of Additions and Removals*.

**DATES:** November 4, 2009: Deadline for filing requests to appear at the public hearing.

November 5, 2009: Deadline for filing pre-hearing briefs and statements.

November 16, 2009: Public hearing.

November 19, 2009: Deadline for filing post-hearing briefs and statements and other written submissions.

January 21, 2010: Transmittal of report to the Office of the United States Trade Representative.

**ADDRESSES:** All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street SW., Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://www.usitc.gov/secretary/edis.htm>.

#### FOR FURTHER INFORMATION CONTACT:

Information specific to this investigation may be obtained from Gail Burns, Project Leader, Office of Industries (202-205-2501 or [gail.burns@usitc.gov](mailto:gail.burns@usitc.gov)) or Philip Stone, Deputy Project Leader,

Office of Industries (202-205-3424 or [philip.stone@usitc.gov](mailto:philip.stone@usitc.gov)). For information on the legal aspects of this investigation, contact William Gearhart of the Commission's Office of the General Counsel (202-205-3091 or [william.gearhart@usitc.gov](mailto:william.gearhart@usitc.gov)). The media should contact Margaret O'Laughlin, Office of External Relations (202-205-1819 or [margaret.olaughlin@usitc.gov](mailto:margaret.olaughlin@usitc.gov)). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202-205-1810. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). 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.

**Background:** As requested by the USTR, in accordance with sections 503(a)(1)(A), 503(e), and 131(a) of the Trade Act of 1974, as amended (19 U.S.C. 2463(a)(1)(A), 19 U.S.C. 2463(e), and 19 U.S.C. 2151(a)), and pursuant to the authority of the President delegated to the United States Trade Representative by sections 4(c) and 8(c) and (d) of Executive Order 11846 of March 31, 1975, as amended, and pursuant to section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), the Commission will provide advice as to the probable economic effect on U.S. industries producing like or directly competitive articles and on U.S. imports and consumers of the elimination of U.S. duties for all beneficiary developing countries under the GSP program on articles provided for in HTS subheadings 0710.22.40, 0710.90.91, 2905.17.00, 3823.70.40, and 7614.10.10. Also, as requested by USTR, pursuant to section 332(g) of the Tariff Act of 1930, the Commission will provide advice as to the probable economic effect on U.S. industries producing like or directly competitive articles, on U.S. imports, and on consumers of the removal of India from GSP eligibility for HTS subheadings 7113.19.21 and 7113.19.25. As requested by the USTR, the Commission will provide its advice by January 21, 2010. The USTR indicated that those sections of the Commission's report and related working papers that contain the Commission's advice will be classified as "confidential."

**Public Hearing:** A public hearing in connection with this investigation will be held at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC, beginning at 9:30 a.m. on November 16, 2009. Requests to appear at the public hearing should be filed with the Secretary no later than

5:15 p.m. November 4, 2009. Any pre-hearing briefs and other statements relating to the hearing should be filed with the Secretary not later than 5:15 p.m. November 5, 2009, and all post-hearing briefs and statements and any other written submissions should be filed with the Secretary not later than 5:15 p.m. November 19, 2009. All requests to appear and pre- and post-hearing briefs and statements must be filed in accordance with the requirements in the "Written Submissions" section below. In the event that, as of the close of business on November 4, 2009, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Persons interested in learning whether the hearing has been cancelled should call the Office of the Secretary after November 5, 2009, at 202-205-2000.

**Written Submissions:** In lieu of or in addition to participating in the hearing, interested parties are invited to file written submissions concerning this investigation. All such submissions should be addressed to the Secretary and should be received not later than 5:15 p.m. November 19, 2009 (see earlier dates for filing requests to appear and for filing pre-hearing briefs and statements). All written submissions must conform with the provisions of section 201.8 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.8). Section 201.8 requires that a signed original (or a copy so designated) and fourteen (14) copies of each document be filed. In the event that confidential treatment of a document is requested, at least four (4) additional copies must be filed in which the confidential information must be deleted (see the following paragraph for further information regarding confidential business information). The Commission's rules authorize filing submissions with the Secretary by facsimile or electronic means only to the extent permitted by section 201.8 of the rules (see Handbook for Electronic Filing Procedures, [http://www.usitc.gov/secretary/fed\\_reg\\_notices/rules/documents/handbook\\_on\\_electronic\\_filing.pdf](http://www.usitc.gov/secretary/fed_reg_notices/rules/documents/handbook_on_electronic_filing.pdf)). Persons with questions regarding electronic filing should contact the Secretary (202-205-2000).

Any submissions that contain confidential business information must also conform with the requirements of section 201.6 of the *Commission's Rules of Practice and Procedure* (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the "confidential" or "non-confidential"

version, and that the confidential business information be clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available in the Office of the Secretary to the Commission for inspection by interested parties. The Commission may include some or all of the confidential business information submitted in the course of the investigation in the report it sends to the USTR.

As requested by the USTR, the Commission will publish a public version of the report, which will exclude portions of the report that the USTR has classified as well as any business confidential information.

Issued: October 21, 2009.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

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## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-613]

### In the Matter of: Certain 3G Mobile Handsets and Components Thereof; Notice of Commission Determination To Review in Part A Final Determination Finding No Violation of Section 337 and on Review To Affirm the Administrative Law Judge's Determination of No Violation; Termination of Investigation

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

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined to review in part the presiding administrative law judge's ("ALJ") final initial determination ("ID") issued on August 31, 2009, finding no violation of Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the above-captioned investigation. Specifically, the Commission has determined to review portions of the ALJ's claim construction and invalidity analysis, but to affirm the ALJ's determination of no violation, and has terminated the investigation.

**FOR FURTHER INFORMATION CONTACT:** Megan M. Valentine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 708-2301. Copies of non-confidential documents filed in connection with this investigation are or will be available for

inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted Inv. No. 337-TA-613 on September 11, 2007, based on a complaint filed by InterDigital Communications Corp. of King of Prussia, Pennsylvania and InterDigital Technology Corp. of Wilmington, Delaware (collectively, "InterDigital") on August 7, 2007. The complaint, as amended, alleged violations of Section 337 of the Tariff Act of 1930 (19 U.S.C. \*\*1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain 3G mobile handsets and components by reason of infringement of certain claims of U.S. Patent Nos. 7,117,004 ("the '004 patent"); 7,190,966 ("the '966 patent"); and 7,286,847 ("the '847 patent") ("the Power Ramp-Up Patents"); and 6,693,579 ("the '579 patent"). The notice of investigation named Nokia Corporation of Finland and Nokia Inc. of Irving, Texas (collectively, "Nokia") as respondents.

On August 14, 2009, the ALJ issued his final ID, finding no violation of Section 337. In particular, he found that the asserted claims of the patents-in-suit are not infringed and that they are not invalid. The ALJ further found that a domestic industry exists with respect to the patents-in-suit. Additionally, the ALJ found that there is no prosecution laches relating to the '004, '966, and '847 patents and that the '579 patent is enforceable. The ALJ further found that there is no waiver and patent misuse with respect to the patents-in-suit. The ALJ also issued a Recommended Determination on remedy and bonding, recommending that, in the event a violation of Section 337 is found, the appropriate remedy is a limited exclusion order barring entry of infringing 3G mobile handsets and components thereof and that it would also be appropriate to issue various cease and desist orders. The ALJ also recommended that there is no evidence

to support the issuance of a bond during the period of Presidential review.

On August 31, 2009, InterDigital filed a petition for review, challenging certain aspects of the final ID, and Nokia filed a contingent petition for review, challenging other aspects of the final ID. On September 8, 2009, Nokia filed a response to InterDigital's petition for review, and InterDigital filed a response to Nokia's contingent petition for review. The Commission investigative attorney filed a joint response to both InterDigital's and Nokia's petitions on September 8, 2009.

Having examined the record of this investigation, including the ALJ's final ID, the petitions for review, and the responses thereto, the Commission has determined to review the subject ID in part. Specifically, the Commission has determined to review the ALJ's claim construction of the terms "synchronize," found in claims 5, 6, 9, and 11 of the '847 patent, and "access signal," found in claim 59 of the '004 patent and claims 6, 9, and 11 of the '847 patent. The Commission has also determined to review the ALJ's validity determinations with respect to the four asserted patents. On review, we affirm the ALJ's determination of no violation, but take no position with regard to the term "synchronize" and validity.

In addition, the Commission modifies the ALJ's construction of "access signal" to clarify that his construction does not read out the situation where the "access signal" may continue to be transmitted after the power ramp-up procedure ends. The ID limits the transmission of the "access signal" to the power ramp-up procedure, finding the transmission does not continue during the remainder of the call setup process. The Commission agrees that the "access signal" is transmitted during the power ramp-up procedure and that the "access signal" is a separate transmission from any other call set up messages that a subscriber unit pursuant to the Power Ramp-Up Patents transmits to a base station during a communication event. The Commission finds, however, that the '004 and '847 patents do not require that the transmission of the "access signal" ends when the power ramp-up procedure ends.

The Commission has determined not to review the remaining issues decided in the ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.42 of the Commission's Rules of Practice and Procedure (19 CFR 210.42).