

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.


In the Matter of)

CERTAIN UNIFIED COMMUNICATIONS)
SYSTEMS, PRODUCTS USED WITH)
SUCH SYSTEMS, AND COMPONENTS)
THEREOF)

Investigation No. 337-TA-598

Notice To The Parties

The Final Initial and Recommended Determinations (ID) were filed on January 28, 2008. Attached are the title page, conclusions of law and the order, which are not confidential and which form a portion of said determinations. For receiving said ID, see Commission rules 210.6 and 210.7. Counsel for complainant, respondent and the staff received a copy of this notice on January 28, 2008.


Paul J. Luckern
Administrative Law Judge

Issued: January 28, 2008

PUBLIC VERSION

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

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| |) | |
| CERTAIN UNIFIED COMMUNICATIONS |) | Investigation No. 337-TA-598 |
| SYSTEMS, PRODUCTS USED WITH |) | |
| SUCH SYSTEMS, AND COMPONENTS |) | |
| THEREOF |) | |

Final Initial and Recommended Determinations

This is the administrative law judge's Final Initial Determination under Commission rule 210.42. The administrative law judge, after a review of the record developed, finds inter alia that there is jurisdiction and that there is a violation of section 337 of the Tariff Act of 1930, as amended.

This is also the administrative law judge's Recommended Determination on remedy and bonding, pursuant to Commission rules 210.36(a) and 210.42(a)(1)(ii). The administrative law judge recommends the issuance of a limited exclusion order barring entry into the United States of infringing unified communication system, products used with such systems and components thereof, the issuance of a cease and desist order, and that a bond be set in the amount of 100 percent of entered value during the Presidential review period.

CONCLUSIONS OF LAW

1. The Commission has in personam jurisdiction and subject matter jurisdiction.
2. There has been an importation of accused products which are the subject of the unfair trade allegation.
3. While asserted claim 38 of the '439 patent has been proven to be invalid based on anticipation none of the other asserted claims have been proven to be invalid based on anticipation.
4. The accused OXE system products directly infringe asserted claims 1 and 28 of the '439 patent.
5. Respondent contributorily infringes asserted claims 1 and 28 of the '439 patent by selling the accused OXE system products, which include the OTUC software.
6. Respondent has induced others to infringe asserted claims 1 and 28 of the '439 patent through use of the accused OXE system products which include the OTUC software.
7. None of the accused products infringe the asserted claims of the '289 patent, '064 patent and the '357 patent.
8. The accused OXO system products do not infringe asserted claims 1 and 28 of the '439 patent.
9. The asserted claims of the '289 patent and asserted claims 1 and 28 of the '439 patent are enforceable.
10. A domestic industry exists as to the '439 and '289 patents.
11. A domestic industry does not exist as to the '064 and '357 patents.
12. There has been a violation of Section 337.

13. The record supports issuance of a limited exclusion order, a cease and desist order and a bond set in the amount of 100 percent of entered value during the sixty day Presidential review period.

ORDER

Based on the foregoing, and the record as a whole, it is the administrative law judge's Final Initial Determination that there is a violation of section 337 in the importation into the United States, sale for importation, and the sale within the United States after importation of certain unified communication systems, products used with such systems and components thereof. It is also the administrative law judge's recommendation that a limited exclusion order should issue barring entry into the United States of infringing unified communication systems, products used with such systems and components thereof as well as a cease and desist order; and that a bond be set at 100 percent of entered value during the Presidential review period.

The administrative law judge hereby CERTIFIES to the Commission his Final Initial and Recommended Determinations together with the record consisting of the exhibits admitted into evidence. The pleadings of the parties filed with the Secretary and the transcript of the pre-hearing conference, and the hearing, are not certified, since they are already in the Commission's possession in accordance with Commission rules.

Further it is ORDERED that:

1. In accordance with Commission rule 210.39, all material heretofore marked in camera because of business, financial and marketing data found by the administrative law judge to be cognizable as confidential business information under Commission rule 201.6(a), is to be given in camera treatment continuing after the date this investigation is terminated.

initial and recommended determinations.

3. The initial determination portion of the Final Initial and Recommended Determinations, issued pursuant to Commission rule 210.42(h)(2), shall become the determination of the Commission forty-five (45) days after the service thereof, unless the Commission, within that period shall have ordered its review or certain issues therein or by order has changed the effective date of the initial determination portion. The recommended determination portion, issued pursuant to Commission rule 210.42(a)(1)(ii), will be considered by the Commission in reaching a determination on remedy and bonding pursuant to Commission rule 210.50(a).

ISSUED: January 20, 2008

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