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January 28, 2013

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BY HAND & EDIS

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

Re: *Certain Wireless Devices with 3G and/or 4G Capabilities and Components Thereof*
(Docket No. 2929)

Dear Secretary Barton:

Thank you for taking time to speak with me today regarding the Complaint (Docket No. 2929) pending in this matter with respect to proposed respondents Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and Samsung Telecommunications America, LLC (collectively “Samsung”). Along with other attorneys, I am counsel to Samsung.

As stated during the call, the Complaint is deficient because it fails to include any evidence of unlawful importation by Samsung of articles alleged to infringe six of the seven asserted patents. To the contrary, the Samsung articles that were obtained and studied in relation to the Complaint were authorized products, as they were made, imported and sold prior to expiration of the license Samsung had under those patents.

Specifically, as acknowledged in Paragraph 11.4 of the Complaint, Samsung had a license until December 31, 2012.¹ In contrast to that date, *all* of the Samsung articles included in the Complaint were obtained between December 6 and 14, 2012; *see* Exhibit 52 and attachments to the Complaint. Indeed, there are *no* Samsung articles provided with the Complaint that were made after expiration of the acknowledged license to Samsung.

As such, the Complaint only provides information concerning *authorized* imports by Samsung and is entirely lacking any information concerning, and is not based on, *unauthorized* imports. Evidence on unauthorized imports is expressly required to be included in the Complaint according

¹ The license concerns six of the seven patents being asserted against Samsung in the Complaint. Only U.S. Patent No. 7,941,151 was not part of the license to Samsung.

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to Commission Rule 210.12(a)(3). Absent such evidence, the Commission should not institute at this time an investigation with respect to Samsung concerning the patents that were licensed.

Accordingly, Samsung requests dismissal of the Complaint under Commission Rule 210.10(c) to the extent it asserts against Samsung any patents other than the '151 patent. Alternatively, under Commission Rule 210.10(a)(iii), Samsung requests postponement of institution of any investigation based on the Complaint at least until proper evidence concerning Samsung's purported *unauthorized imports* is provided to the Commission. In light of the fact-based pleadings required by Section 337, such evidence should consist of specific factual allegations rather than merely generalized assertions of continued importation.

Sincerely,



Stephen J. Rosenman

cc: **BY E-MAIL**
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CERTIFICATE OF SERVICE

I hereby certify that on January 28, 2013, copies of the foregoing Letter Regarding Institution were caused to be served upon the following, via delivery methods indicated:

BY ELECTRONIC DELIVERY (EDIS + copies, as required)

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