

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

In the Matter of

CERTAIN ELECTRONIC DEVICES,
INCLUDING WIRELESS COMMUNICATION
DEVICES, PORTABLE MUSIC AND DATA
PROCESSING DEVICES, AND TABLET
COMPUTERS

Investigation No. 337-TA-794

**RESPONDENT APPLE INC.'S NOTICE OF NEW FACTS
RELATED TO THE COMMISSION'S QUESTIONS ON THE ISSUES UNDER REVIEW, AND
ON REMEDY, BONDING, AND THE PUBLIC INTEREST**

(77 Fed. Reg. 70464 (Nov. 26, 2012))

Apple submits this notice to inform the Commission of new facts relevant to the issues under review and the public interest.

On February 28, 2013, the Tokyo District Court issued a decision dismissing Samsung's complaint against Apple for alleged infringement of a Samsung patent declared essential to the UMTS wireless standard (JP 4,642,898) after concluding that Samsung had committed multiple acts constituting an abuse of rights, thereby rendering the patent unenforceable. (A translation of the abuse of rights section of the Japanese court's decision is attached as Exhibit A. Confidential material has been redacted.) The reasoning in the decision is highly pertinent to this Investigation for at least three reasons.

First, applying the Intellectual Property Rights ("IPR") Policy of the European Telecommunications Standards Institute ("ETSI"), the Japanese court found that Samsung failed to disclose its relevant patent application to ETSI until "approximately two years after the technology of the Patent (alternative E-bit interpretation) was adopted as a part of the standards at Samsung's request to amend the 3GPP standards." (Ex. A at 11.) The Japanese court concluded that Samsung's violation of ETSI's IPR Policy constituted one of three factors supporting a finding an abuse of rights. Samsung's untimely disclosure to ETSI of its asserted '644 and '348 patents was equally egregious as that found by the Japanese court. Samsung did not disclose its IPR related to the '348 patent to ETSI until four years after adoption of the standard. (RDX-6-9; Tr. [Walker] at 1370:13-1383:4, 1388:4-1389:14; APostHB at 19-24.) And Samsung did not disclose its IPR related to the '644 patent to ETSI until almost a year after adoption of the standard. (RDX-6-14; Tr. [Walker] at 1389:15-1396:20; APostHB at 126-31.)

Second, the Japanese court found that another factor supporting a finding of an abuse of rights is that Samsung sought a preliminary injunction on a patent that it had promised to license on Fair, Reasonable, and Non-Discriminatory ("FRAND") terms. (Ex. A at 11.) Samsung's FRAND declarations to ETSI for the '644 and '348 patents carry the same consequence: by pledging to license on FRAND terms, Samsung disclaimed any right it might have had to obtain an exclusionary remedy. (Tr. [Walker] 1348:10-1350:20; RX-0710, Clause 6.1.)

Third, the Japanese court determined that another factor supporting a finding an abuse of rights is Samsung's failure to negotiate a FRAND license in good faith with Apple. (Ex. A at 11.) Similarly, here, Samsung filed its Complaint before making a FRAND licensing offer to Apple, made no attempt to show that its subsequent offer was FRAND, and put forward no evidence that it had engaged in any bona fide negotiation with Apple.

In finding that Samsung has engaged in anticompetitive behavior using one of its declared-essential patents, the Japanese decision echoes the preliminary determination of the European Commission that Samsung violated European antitrust law by seeking injunctions on such patents. (*See* Dkt. No. 499892.) The decisions in Europe and Japan underscore that it would be against the public interest to issue an exclusionary remedy to Samsung on declared-essential patents.

Dated: March 4, 2013

Respectfully submitted,
Apple Inc.

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Exhibit A

Abuse of Rights Section of DJ Decision as of February 28, 2013

[pp. 89-111]

2. Regarding Issue No. 6 (Abuse of Rights)

Next, the court will render its decision on Apple Japan's defense that Samsung's exercise of the right to demand compensation for damage based on the asserted Patent (the "Patent") in regards to the Accused Products 2 and 4 (iPhone 4 and iPad 2 Wi-Fi+3G model) constitutes an abuse of rights.

(1) Assumptions

On the basis of a comprehensive consideration of the facts not in dispute and evidence (Apple's Exhibits No. 5, 6, 12, 13, 27-29, 32-37, 65, 85-87, 109-111; Samsung's Exhibits No. 36, 42, 53 (including branch numbers for those with branch numbers)) and the arguments overall, the following facts are recognized.

A. ETSI IPR Policy

(A) For second generation mobile communications systems (2G), outside Europe, not only were standards different from country to country, but even within a single country standards would differ, and there was no universal interoperability. Moreover, the US, Japan and Europe each operated systems based on mutually incompatible standards. Under such conditions, with the goal of promoting the use of the third generation mobile communications systems, which would provide not only the traditional voice services, but also data and multimedia services, and the standardization of their specifications, ETSI (European Telecommunications Standardization Institute) and other global standards setting organizations were formed, and in 1998, they formed a standard setting organization called 3GPP.

(B) ETSI stipulates an IPR policy regarding the handling of IPR.

Generally, the advancement of technology standardization is expected to have the effects of ensuring compatibility between devices, reducing manufacturing and procurement

costs, as well as increasing R&D efficiency and expanding the opportunities for affiliations with other companies; moreover, for end users, there is the benefit that standardization leads to improvements in product and service convenience and reductions in product prices and service fees. Meanwhile, a company, by monopolizing the implementation of technology on the basis of its intellectual property rights, can prohibit other companies from implementing that technology and seek an increase in its own sales; in a case where a certain intellectual property right is deemed essential to standardized technical standards, there is the danger that the company that possesses such intellectual property rights, will threaten to prohibit another company that wishes to use those standards to bring a product to market, demanding exorbitant royalties or imposing other unreasonable license conditions and that that other company will be forced to agree to these terms. There is also the danger that such other company, as a result of being unable to obtain a license for such intellectual property rights, will have wasted the investment (development investment, facility investment) that it had already made in order to apply those standards, and thus, given the possibility that there will be substantial impediments to the spread of technology through standardization, in the telecommunications field, there is a demand for a balance between the needs for standardization and the rights of holders of intellectual property rights.

It is the goal of ETSI IPR Policy to meet these kinds of demands (See 3.1, “Policy Objectives”).

- (C) ETSI’s IPR Policy has the following stipulations.
 - a. Clause 4.1 of the IPR Policy provides that members, in particular during the development of a standard or technical specification in which they are participating, must take reasonable endeavors to inform ETSI of essential IPRs in a timely fashion; in particular, members who make proposals regarding standards or technical specifications must in good faith inform ETSI about any IPR it possesses that may become essential if that member’s proposal is accepted. Clause 4.3 stipulates that the obligations of Clause 4.1 are deemed to be fulfilled in respect of all existing and future members of a patent family if ETSI has been informed of a member of this patent family in a timely fashion.

- b. IPR Policy Clause 6.1 stipulates that when an essential IPR relating to a particular standard or technical specification is brought to the attention of ETSI, the Director-General of ETSI shall immediately request the owner to give within three months an irrevocable undertaking in writing that it is prepared to grant irrevocable licenses on “fair, reasonable and non-discriminatory terms and conditions” (FRAND conditions) under such IPR to at least to the extent of manufacture (including the right to make or have made customized components and sub-systems to the licensee's own design for use in manufacture; the sale, lease, disposal, repair, use or operation of equipment so manufactured; and use of methods; and that the above undertaking may be made subject to the condition that those who seek licenses agree to reciprocate. In the event a member assigns or transfers ownership of an essential IPR that it disclosed to ETSI, the member shall exercise reasonable efforts to notify the assignee or transferee of any undertaking it has made to ETSI pursuant to Clause 6 with regard to that essential IPR. Clause 6.2 stipulates that an undertaking pursuant to Clause 6.1 with regard to a specified member of a patent family shall apply to all existing and future essential IPRs of that patent family unless there is an explicit written exclusion of specified IPRs at the time the undertaking is made. Clause 6.3 stipulates that if the IPR owner does not make the requested undertaking, the Committee Chairmen should, if appropriate, in consultation with the ETSI Secretariat, use their judgment as to whether or not the committee should suspend work on the relevant parts of the standard or technical specification until the matter has been resolved “and/or” submit for approval any relevant standard or technical specification.
- c. IPR Policy Clause 15.6 stipulates that "**essential**" as applied to IPR means that it is not possible on technical (but not commercial) grounds, taking into account normal technical practice and the state of the art generally available at the time of standardization, to make, sell, lease, otherwise dispose of, repair, use or operate equipment or methods which comply with a standard without infringing that IPR.
- d. IPR Policy Clause 12 stipulates that the IPR Policy shall be governed by the laws of France.

(D) The ETSI Guide on IPRs (Apple's Exhibit No. 16), which supplements the IPR Policy, has the following stipulations.

a. Clause 1.1 of the ETSI Guide on IPRs stipulates:

“The main characteristics of the Policy can be simplified as follows:

- Members are fully entitled to hold and benefit from any IPRs which they may own, including the right to refuse the granting of licenses.
- It is ETSI's objective to create Standards and Technical Specifications that are based on solutions which best meet the technical objectives of ETSI.
- In achieving this objective, the ETSI IPR Policy seeks a balance between the needs of standardization for public use in the field of telecommunications and the rights of the owners of IPRs.
- The IPR Policy seeks to reduce the risk that investment in the preparation, adoption and application of standards could be wasted as a result of an Essential IPR for a standard or technical specification being unavailable.
- Therefore, the knowledge of the existence of Essential IPRs is required as early as possible within the standards making process, especially in the case where licenses are not available under fair, reasonable and non-discriminatory (FRAND) terms and conditions.”

b. Clause 1.4 of the ETSI Guide on IPRs explains that ETSI's IPR Policy defines rights and obligations for ETSI as an institute, for its members and for the secretariat and that non-members of ETSI also have certain rights under the Policy but do not have legal obligations. The table in this clause stipulates the following, among other things.

Members' Rights:

“• to refuse the inclusion of own IPRs in standards (Clauses 8.1 and 8.2).

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- to be granted licenses on fair, reasonable and non-discriminatory terms and conditions in respect of a standard (Clause 6.1)."

Members' Obligations:

- “• to inform ETSI about their own, and other people's, Essential IPRs (Clause 4.1).
- owners of Essential IPRs are requested to undertake to grant licenses on fair, reasonable and non-discriminatory terms and conditions (Clause 6.1).

Third Party Rights:

- “• Third parties have certain RIGHTS under the ETSI IPR Policy either as owners of Essential IPRs or as users of ETSI standards or documentation: ...
- * To be granted licenses on fair, reasonable and non-discriminatory terms and conditions in respect of a standard at least to manufacture, sell, lease, repair, use and operate (Clause 6.1).”

B. Course of Events up to the FRAND Declaration

- (A) On December 14, 1998, Samsung, who is an ETSI member, declared (Apple's Exhibit No. 5) to ETSI that in regards to W-CDMA technology that ETSI was recommending as an UMTS standard, it was prepared to grant licenses to essential IPR that Samsung possessed, on “fair, reasonably and non-discriminatory condition” (FRAND conditions) in accordance with Clause 6.1 of the ETSI IPR Policy.
- (B) On May 4, 2005, Samsung filed a patent application in South Korea that would serve as the basis for the priority claim for the Application (priority claim no. 10-2005-0037774).
- (C) From May 9 to 14, 2005, Samsung submitted to the 3GPP working group change requests in regards to Technical Specification v6.3.0, which set forth the standards effective at such time, requesting “the introduction of “alternative E bit interpretation” to be used if desired during RLC UM operation” and “introduction of a new prescribed value to be set

for the “length indicator” in cases where the RLC PDU is neither the first nor the last octet of the RLC SDU” (Apple’s Exhibit No. 85).

Subsequently, the above change requests were adopted, and the Extension Bit (E-bit) section (section 9.2.2.5) in the Technical Specifications for 3GPP v6.4.0 issued in June 2005 (Apple’s Exhibit No. 87) indicates that an optional standard to the conventional standard E-bit interpretation is the alternative E-bit interpretation (standard to be used only in a case where data is to be transmitted in unconfirmed mode (UM), and for the E-bit following a sequence number (SN), the upper layer configuration has chosen to use an alternative E-bit interpretation), thus making the alternative E-bit interpretation a part of the technical standards.

- (D) On May 4, 2006, Samsung filed the application. Subsequently, on December 20, 2010, the Patent was registered.
- (E) On August 7, 2006, Samsung submitted to ETSI a document entitled “Statement Regarding IPR Information and Declaration of License” (Apple’s Exhibit No. 13), thereby informing ETSI, in accordance with ETSI IPR Policy Clause 4.1, that the IPR associated with the application number of the Korean patent application that serves as the basis for the priority claim of the Application and the international application number for the Application (PCT/KR2006/001699) etc. was, or had a high possibility of becoming, essential IPR relating to the UTMS standards (TS 25.322 etc.); and declaring (the FRAND Declaration) that, to the extent that such IPR remained essential, it was prepared to grant irrevocable licenses regarding such standards under conditions conforming to IPR Policy Clause 6.1 (FRAND terms and conditions).

The above document states that this undertaking is made subject to the condition that persons seeking a license reciprocate, in accordance with IPR Policy Clause 6.1, and that the constitution, validity and execution of the FRAND [declaration] is governed by the French laws.

C. Course of Events Following the FRAND Declaration

- (A) In April 2011, Apple Inc. filed an infringement suit against Samsung in the US, asserting that Samsung had infringed Apple's intellectual property rights relating to the iPad and iPhone.

The intellectual property rights asserted by Apple are not considered essential to the standards.

- (B) Following Apple's institution of the US lawsuit discussed in (a) above, on April 21, 2011, asserting that Apple Japan's manufacture, sale, import and other conduct involving the Accused Products constituted direct or indirect infringement of the Patent relating to the Inventions (Patent Act, Article 101, Items 4, 5), Samsung petitioned for a preliminary injunction order against Apple Japan, with the right to seek an injunction under Article 102 of the Patent Act as the preserved right, prohibiting Apple Japan's manufacture, sale, import or other conduct involving the Accused Products.

Subsequently, on September 24, 2012, Samsung withdrew the portions of its petition for the preliminary injunction relating to Accused Products 1 and 3 (iPhone 3GS and iPad Wi-Fi+3G model).

- (C) a Apple requested Samsung in its letter dated April 29, 2011 (Apple's Exhibit No. 6-1) that although Apple was not admitting that it was infringing Samsung's patents or that Samsung's patents were valid in connection with the patent infringement lawsuits against Apple's entities (affiliates including Apple Japan, Inc.) that Samsung had instituted in the US, Germany, Korea, and Japan, to clarify, from the perspective of minimizing the scope of the dispute: (i) Samsung's FRAND royalty rate or lump sum fee for UMTS standard-essential patents Samsung has asserted against Apple; (ii) the scope to which the royalty rate would apply (whether the rate is applied to the retail price of an end-user product, or to the component of the end-user product that allegedly practices the patents), and (iii) whether license agreements were executed between the makers of UMTS chips and Samsung, and their terms and conditions (copies of the agreements), etc.
- b Samsung requested Apple in its letter dated May 13, 2011 (Apple's Exhibit No. 6-3) that (i) Apple clarify the license terms that Apple sought (identification of the applicable

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patents, term, possibilities of cross-licensing any essential patents that Apple might have, etc.) and (ii) future negotiations be mutually kept confidential. In addition, in its letter dated June 3, 2011 (Apple's Exhibit No. 6-6), Samsung stated that it was willing to grant a license to Apple on FRAND terms, but that it needed to enter into an NDA before setting forth the terms and conditions of such license.

Apple told Samsung in its letter dated June 22, 2011 (Apple's Exhibit No. 32) that it was impossible for Apple to determine whether the licensing rates set forth by Samsung were FRAND terms unless Samsung disclosed the existing licenses' rates, licensing program, or basic information, and that Apple would be willing to sign the NDA if it would help move the licensing negotiations between the two companies forward.

[REDACTED]

- (D) Samsung indicated to Apple in its letter dated July 25, 2011 (Apple's Exhibit No. 29) that it was willing to grant Apple a worldwide nonexclusive license under Samsung patents (including pending applications) that are essential to the UMTS Standards in accordance with FRAND terms "at a royalty of 2.4% for each end product" (hereinafter referred to as "Samsung's Licensing Proposal"), and told Apple that that the offer was open for 10 business days.

[REDACTED]

- (E) Apple Japan instituted this lawsuit on September 16, 2011.

[REDACTED]

E. Significance of the Patent

The Patent is an essential patent use of which cannot be avoided when manufacturing, selling, or using methods of use for, products that conform to the "Alternative E-bit Interpretation" set forth in the Technical Specifications v.6.9.0 for the UTMS.

- (2) Governing Law

In this case, Apple Japan, a Japan corporation, is seeking confirmation that Samsung, a South Korea corporation, does not have the right to demand compensation for damage against Apple Japan on the basis of infringement of the Patent with respect to the import, sale and other conduct involving the Accused Products; because this case includes non-domestic elements, it is necessary to determine the governing law.

In regards to the demand for compensation for damage based on infringement of the Patent, because it is understood that the nature of the legal relationship is tortious conduct, the governing law will be determined by Article 17 of the Act on General Rules for Application of Laws ("General Rules Law").

Given that the location where the acts of importing and selling the Accused Products took place is Japan and that the issue in this case is the infringement of the Patent, which is protected by the Patent Act of Japan, the "law of the locality where the results of the harmful conduct arose" (General Rules Law, Article 17) should be understood to be the laws of Japan. Accordingly, in this case, Japanese law applies.

On the basis of the foregoing, the court will make its determination regarding whether Samsung's exercise of the right to seek compensation for damage based on infringement of the Patent constitutes an abuse of rights.

(3) Abuse of Rights

Apple Japan asserts that in light of such circumstances as the fact that Samsung willfully breached the timely disclosure duty regarding the Patent, that Samsung's petition for the Preliminary Injunction is a retaliatory counterstrike, that Samsung breached the duty to conclude license agreements and the duty to negotiate in good faith in regards to the Patent, which is a patent declared to be essential to the standards pursuant to the FRAND Declaration, and has created a so-called "hold-up situation" (a situation whereby because of the exercise of rights for technology incorporated in the standards, a person wishing to use the standards is unable to do so), and that such series of acts of Samsung constitute a violation of the Antimonopoly Law, Samsung's exercise of the right to seek compensation

for damage against Apple Japan pursuant to the Patent constitutes an abuse of rights (Civil Code, Article 1, Paragraph 3) and cannot be allowed.

- A. (A) Under the Civil Code of Japan, there are no express provisions regarding the duties of parties at the stage of preparation for contract execution; however, it is reasonable to understand that in certain cases, parties that have entered into contract negotiations owe a duty to each other under the principle of good faith to provide the other party with important information and to negotiate in good faith.

However, according to the aforementioned assumptions, it is found (i) that Samsung, who is a member of ETSI (European Telecommunications Standards Institute), on August 7, 2007, in the document of Apple's Exhibit No. 13, declared (the FRAND Declaration) to ETSI that the IPR relating to the Patent's international application number etc. was essential to the UMTS standards (3GPP standards) and that in respect to the essential IPR, it was prepared to grant irrevocable licenses regarding such standards under FRAND terms and conditions conforming to IPR Policy Clause 6.1 (fair, reasonable and non-discriminatory terms and conditions); and (ii) that ETSI Guide on IPRs Clause 1.4 stipulates, under the obligations of members, that "owners of Essential IPRs are requested to undertake to grant licenses on fair, reasonable and non-discriminatory terms and conditions" (IPR Policy Clause 6.1); under the rights of members, the right "to be granted licenses on fair, reasonable and non-discriminatory terms and conditions in respect of a standard" (IPR Policy Clause 6.1); and under the rights of third parties, the right to "be granted licenses on fair, reasonable and non-discriminatory terms and conditions in respect of a standard at least to manufacture, sell, lease, repair, use and operate" (IPR Policy Clause 6.1).

In light of (i) and (ii) above and the arguments overall, it is understood that, pursuant to the stipulations of ETSI IPR Policy Clause 6.1 and ETSI Guide on IPRs Clause 1.4, in a case where a person has requested a license under FRAND terms and conditions in respect of the Patent--which under the FRAND Declaration was declared to be essential to the UMTS standards--regardless of whether the person making the request is a member or a third party, Samsung owes the obligation to negotiate in good faith with such person

towards the conclusion of a license agreement under FRAND terms and conditions in respect to the use of such UMTS standards.

If this is the case, if Samsung has received a specific request for a license under FRAND terms and conditions in respect to the Patent, it can be said that Samsung and such requester have entered the stage of preparation for contract execution for a license agreement under FRAND terms and conditions; accordingly, it is reasonable to understand that both parties owe the duty under the principle of good faith, to provide each other with important information and to negotiate in good faith towards the conclusion of such license agreement.

In addition, at least by the time **[REDACTED]**, and it should be said that Apple and Samsung entered into a stage of preparation for contract execution and have assumed a duty of good faith as set forth above.

- (B) With respect to this point, Samsung asserts that the duty to negotiate in good faith under the FRAND declaration has not risen, on the grounds that (i) the Japanese law should be interpreted to require a “firm license offer” genuinely requesting a license without disputing the validity of the patents covered by the license in order for a FRAND declaration to give rise to a duty of good faith; **[REDACTED]**.

However, Samsung's assertions have no grounds, as explained below.

- a. Regarding (i) and (ii) above

A request for a license under FRAND terms and conditions for a patent declared to be essential for standards based on a FRAND declaration, even if reservations are maintained regarding the validity of the patent to be licensed, as long as the request is a specific request based on the assumption that the patent to be licensed is valid and the requester's intent to receive a license under FRAND terms and conditions are clear, with the above request, it should be said that the good faith obligation of (a) above arises between the person who made the FRAND declaration and the person who made the above request.

[REDACTED]

Therefore, Samsung's assertions regarding (i) and (ii) have no grounds.

- b. Regarding (iii)

[REDACTED]

Therefore, Samsung's assertions regarding (iii) have no grounds.

- B. Then, the court considers whether Samsung breached the duty under the principle of good faith set forth in A. (A) above.

The facts stated above and the summary of all the assertions show the following facts:

[REDACTED] Samsung proposed to Apple, in its letter dated July 25, 2011 (Apple's Exhibit No. 29), that it was willing to grant Apple a worldwide nonexclusive license under the patents held by Samsung (including pending applications) that are essential to the UMTS standards, at a royalty of 2.4% for each relevant end product in accordance with FRAND terms (Samsung's Licensing Proposal) and informed Apple that it would leave the offer open for 10 business days, but Samsung did not indicate at that time the basis for calculating "a royalty of 2.4% for each end product" in the licensing terms;

[REDACTED]

[REDACTED] Samsung, in its letter dated July 25, 2011, proposed to Apple "a royalty of 2.4% for each end product" for a worldwide nonexclusive license to the patents held by Samsung (including pending applications) that are essential to the UMTS standards (Samsung's Licensing Proposal) with a FRAND licensing term, Samsung did not indicate the basis for calculating the licensing term above at that time, **[REDACTED]**.

Therefore, it is appropriate to recognize that Samsung breached a duty of good faith to provide material information to Apple and conduct negotiations in good faith with an eye towards the execution of a FRAND license agreement over the Patent, which Samsung has declared essential to the UMTS standards.

Samsung's assertions against the above cannot be accepted.

- C. As stated above, considering: (i) that Samsung breached its duty of good faith to provide the counterparty with material information at the stage of preparation for the execution of a FRAND license agreement for the Patent as to the patent that was declared as standard essential based on FRAND declaration in the present case and conduct negotiations in good faith; (ii) that under such circumstances, Samsung, as of the date of the conclusion of the oral proceedings, still maintained a petition for a preliminary injunction seeking to enjoin importation, assignment, etc. of the Accused Products 2 and 4 (iPhone 4 and iPad 2 Wi-Fi+3G model) based on the Patent; (iii) that Samsung disclosed the Patent (disclosure of the international application number of the application in the present case) to ETSI approximately two years after the technology of the Patent (alternative E-bit interpretation) was adopted as a part of the standards at Samsung's request to amend the 3GPP standards; and (vi) any other circumstances surrounding the course of licensing negotiations between Apple and Samsung regarding the Patent, it is held that Samsung should not be allowed to exercise the right to seek damages from Apple Japan based on the Patent as to the Accused Products 2 and 4 (iPhone 4 and iPad 2 Wi-Fi+3G model) without faithfully performing the aforementioned duty of good faith, because such exercise of right constitutes an abuse of rights.

In the Matter of CERTAIN MOBILE ELECTRONIC DEVICES, INCLUDING WIRELESS COMMUNICATION DEVICES, PORTABLE MUSIC AND DATA PROCESSING DEVICES, AND TABLET COMPUTERS

Inv. No. 337-TA-794

U.S. International Trade Commission; Before the Honorable E. James Gildea

CERTIFICATE OF SERVICE

I, Lanta M. Chase, hereby certify that copies of the foregoing document, **RESPONDENT APPLE INC.'S NOTICE OF NEW FACTS RELATED TO THE COMMISSION'S QUESTIONS ON THE ISSUES UNDER REVIEW, AND ON REMEDY, BONDING, AND THE PUBLIC INTEREST**, were served upon the following parties as indicated below on this 4th day of March, 2013.

The Honorable Lisa R. Barton Acting Secretary U.S. International Trade Commission 500 E Street, S.W., Room 112 Washington, D.C. 20436	<input type="checkbox"/> Via Hand Delivery (Original + 2 Copies) <input checked="" type="checkbox"/> Via Electronic Filing (EDIS) <input type="checkbox"/> Via Overnight Delivery
The Honorable E. James Gildea Administrative Law Judge U.S. International Trade Commission 500 E Street, S.W., Room 317-E Washington, D.C. 20436	<input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Via Overnight Delivery <input type="checkbox"/> Via Facsimile <input checked="" type="checkbox"/> Via Electronic Mail Sarah.zimmerman@usitc.gov
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/s/ Lanta M. Chase
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