

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

In the Matter of

**CERTAIN WIRELESS DEVICES WITH
3G CAPABILITIES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-800

**SUBMISSION BY NON-PARTY MICROSOFT CORPORATION IN RESPONSE TO
THE COMMISSION'S REQUEST FOR COMMENTS ON THE PUBLIC INTEREST**

[REDACTED]

I. SUMMARY

On behalf of our client, Microsoft Corporation, we respectfully submit this response to the Commission's request for comments on the public interest in light of the ALJ's Recommended Determination on Remedy and Bonding in the above-captioned investigation. *See* 78 Fed. Reg. 42,107-08 (July 15, 2013). The accused Nokia devices exclusively run Microsoft's Windows Phone 8 mobile operating system ("Windows Phone 8" or "WP8"), which is not accused of infringement in this investigation.

A Commission remedial order directed to the accused Nokia smartphones would have significant adverse implications for competitive conditions in the United States smartphone market, U.S. consumers, and Microsoft [REDACTED]. Microsoft's Windows Phone operating system is the only multi-vendor mobile operating system competitor to Google's Android. Exclusion of the accused Nokia Windows Phones, which account for [REDACTED] of Windows Phone sales in the United States market, [REDACTED]

[REDACTED]

[REDACTED]

II. MICROSOFT'S STRATEGIC PARTNERSHIP WITH NOKIA

Windows Phone is a relatively new entrant to the smartphone market, with the first WP8 devices introduced in October 2012. Windows Phone is the only mobile operating system platform in the United States, other than Android, that is available to multiple handset manufacturers (iOS is proprietary to Apple and is only available with Apple hardware). As of the end of FY 2013, smartphones based on WP8 accounted for approximately [REDACTED] percent of all smartphone sales in the United States, an increase from [REDACTED] percent at the end of FY 2012, [REDACTED]

[REDACTED]

Microsoft invested approximately \$ [REDACTED] in domestic WP8 research and development activities in FYs 2012 and 2013, with an additional \$ [REDACTED] in the United States in sales and marketing support for Windows Phone, [REDACTED]

[REDACTED]. [REDACTED]

[REDACTED]

[REDACTED].

**III. AN EXCLUSION ORDER DIRECTED TO NOKIA SMARTPHONES
WOULD HARM COMPETITIVE CONDITIONS IN THE UNITED
STATES, UNITED STATES CONSUMERS, AND MICROSOFT**

[REDACTED]

[REDACTED]

[REDACTED] As previously noted, Nokia accounts for [REDACTED] percent of all Windows Phone devices sold in the United States. The adoption of Windows Phone in the marketplace owes much to the uniquely integrated nature of Nokia's products and the Windows Phone operating system, which provides a polished and consistent experience that other operating systems do not always offer. In addition, Windows Phone handsets offer Live Tiles, which allow users to personalize the handset's Start screen with photographs, people, apps, music, games, and more, using Live Tiles of different colors and sizes. Windows Phone also offers the Live App feature, whereby Live Tiles display up-to-the-minute information such as weather, news and flight times. [REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] From a consumer perspective, remedial orders barring the sale of Nokia smartphones in the United States would also significantly harm Microsoft's competitive position relative to Apple's iOS and Google's Android operating systems. Microsoft represents the primary remaining competition for the Apple/Google "duopoly" in the United States smartphone market.

The adverse effects of such an exclusion order, which would instantly eliminate [REDACTED] of Windows Phone handsets, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] harmful impact of an exclusion order directed to Nokia Windows Phone devices [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].

[REDACTED]

[REDACTED]

Dated: August 7, 2013

Respectfully submitted,

/s/ Jonathan J. Engler

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