

Exhibit 1010

In the Matter of

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

Investigation No. 337-TA-800

COMMISSION OPINION

I. INTRODUCTION

On June 28, 2013, the presiding administrative law judge (“ALJ”) (Judge Shaw) issued his final initial determination (“ID”) in this investigation.¹ The ALJ found no violation of section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337, as amended, by respondents Huawei Technologies Co., Ltd. of Shenzhen, China; Huawei Device USA of Plano, Texas (“Huawei Device”); FutureWei Technologies, Inc. d/b/a Huawei, Technologies (USA) of Plano, Texas (together “Huawei”); Nokia Corporation of Espoo, Finland; Nokia Inc. of White Plains, New York (together “Nokia”); ZTE Corporation of Shenzhen, China; and ZTE (USA) Inc. of Richardson, Texas (together “ZTE”) (collectively, “Adjudicated Respondents”) in connection with claims 1, 2, 3, and 5 of U.S. Patent No. 7,706,830 (“the ’830 patent”); claims 1, 2, 4, and 6-8 of U.S. Patent No. 8,009,636 (“the ’636 patent”); claims 6, 13, 20, 26, and 29 of U.S. Patent No. 7,502,406 (“the ’406 patent”); claims 2-4, 7-11, 14, 22-24, and 27 of U.S. Patent No. 7,706,332 (“the ’332 patent”); claims 1-7 of U.S. Patent No. 7,970,127 (“the ’127 patent”); claims 16-19 of U.S. Patent No. 7,536,013 (“the ’013 patent”); or claims 1-18 of U.S. Patent No. 7,616,970 (“the ’970 patent”). On September 4, 2013, the Commission determined to review the

¹ The ID was served on July 1, 2013.

final ID in its entirety and requested briefing on a single issue concerning domestic industry. 78
Fed. Reg. 55294 (Sept. 10, 2013).

Upon review of the ID, the Commission has determined to affirm the ALJ's finding of no violation of section 337 as to the Adjudicated Respondents, *i.e.*, Huawei, Nokia, and ZTE. Specifically, with respect to the Power Ramp-Up patents (the '830 and '636 patents), the Commission (1) affirms the ALJ's findings that the accused products do not satisfy the "successively sends transmissions" limitation as construed to mean "transmits to the base station, one after the other, codes that are shorter than a regular length code" to the extent that the "successively sends transmissions" refer to the short codes and (2) for the '636 patent vacates the ALJ's findings regarding the "subsequent transmission" limitation. With respect to the Power Control Patents (the '406 and '332 patents), the Commission modifies the ALJ's construction of the claim term "power control bit" to mean "single-bit power control information transmitted at an APC data rate equivalent to the APC update rate" and construes the limitation to encompass only "single-bit power control information." The Commission adopts the ALJ's findings that the '127, '013, and '970 patents are invalid in view of prior art. The Commission supplements and modifies the ID as discussed below.

The Commission notes that this investigation is still pending with respect to certain respondents. Thus, except for non-infringement of Adjudicated Respondents' products, all issues pertaining to the Power Ramp-Up patents (the '406 and '332 patents) and Power Control patents (the '830 and '636 patents) including domestic industry continue to remain under review.

II. BACKGROUND

A. Procedural History

The Commission instituted this investigation on August 31, 2011, based on a complaint filed by complainants InterDigital Communications, LLC of King of Prussia, Pennsylvania;² InterDigital Technology Corporation of Wilmington, Delaware; and IPR Licensing, Inc. of Wilmington, Delaware (collectively, “InterDigital”). 76 *Fed. Reg.* 54252 (Aug. 31, 2011). The complaint 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 wireless devices with 3G capabilities and components thereof that infringe one or more of claims 1-15 of U.S. Patent No. 7,349,540 (“the ’540 patent”); claims 1, 2, 6-9, 13, 15-16, 20-22, 26, 28-30, 34-36, and 40 of the ’406 patent; claims 1-19 of the ’013 patent; claims 1-18 of the ’970 patent; claims 1-27 of the ’332 patent; claims 1-3, 5-8, 10, 16-18, 20-23, and 25 of the ’830 patent; and claims 1-14 of the ’127 patent. *Id.* The notice of investigation named the following respondents: Huawei (except Huawei Device), Nokia, and ZTE. *Id.*

The Office of Unfair Import Investigations (“OUII”) was also named as a party to this investigation. However, pursuant to the Supplement to the Strategic Human Capital Plan 2009-2013, issued by the Commission on January 18, 2012, OUII provided notice that its participation

² InterDigital Communications, LLC subsequently moved for leave to amend the Complaint and Notice of Investigation to reflect the fact that it converted from a Pennsylvania limited liability company to a Delaware corporation, and changed its name to InterDigital Communications, Inc. The ALJ issued an ID granting the motion and the Commission determined not to review. *See* Order No. 91 (Jan. 17, 2013); Notice of Commission Determination Not to Review an Initial Determination Granting Complainants’ Motion for Leave to Amend the Complaint and Notice of Investigation (Feb. 4, 2013).

in this investigation “will be limited to issues relating to U.S. Patent Nos. 7,349,540, 7,536,013, and 7,970,127, as well as issues relating to Respondents’ patent misuse and/or FRAND defenses.” *See* Commission Investigative Staff’s Notice of Partial Participation (Jan 18, 2012).

On December 5, 2011, the ALJ issued an ID, granting a motion by InterDigital to amend the complaint and notice of investigation (1) to add allegations of infringement of claims 1-4, 6-9, and 29-31 of the ’636 patent and (2) to name LG Electronics, Inc.; LG Electronics U.S.A., Inc.; and LG Electronics Mobilecomm U.S.A., Inc. (collectively, “LG”) as respondents. *See* Order No. 5 (Dec. 5, 2011). The Commission determined not to review. *See* Notice of Commission Determination Not to Review an Initial Determination Granting Complainants’ Motion for Leave to Amend the Complaint and Notice of Investigation (Dec. 21, 2011); 76 *Fed. Reg.* 81527 (Dec. 28, 2011).

On April 11, 2012, the ALJ issued an ID, granting a motion by InterDigital to amend the complaint and notice of investigation to add Huawei Device as a respondent. *See* Order No. 19 (Apr. 11, 2012). The Commission determined not to review. *See* Notice of Commission Determination Not to Review an Initial Determination Granting Complainants’ Motion for Leave to Amend the Complaint and Notice of Investigation (May 1, 2012); 77 *Fed. Reg.* 26788 (May 7, 2012).

On June 4, 2012, the ALJ granted a motion by LG under 19 C.F.R § 210.21(a)(2) to terminate the investigation as to LG based on an arbitration agreement. *See* Order No. 30 (June 4, 2012). The Commission determined not to review. *See* Notice of Commission Determination Not to Review an Initial Determination Terminating Certain Respondents From the Investigation

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