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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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APPLE INC.  
Petitioner,

v.

ANDREA ELECTRONICS CORPORATION  
Patent Owner.

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Case No. IPR2017-00627  
U.S. Patent 6,363,345

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**PUBLIC VERSION OF INITIAL DETERMINATION ON VIOLATION OF  
SECTION 337 IN THE MATTER OF *CERTAIN AUDIO PROCESSING  
HARDWARE, SOFTWARE, AND PRODUCTS CONTAINING THE SAME*  
(INV. NO. 337-TA-1026)**

PUBLIC VERSION

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

CERTAIN AUDIO PROCESSING  
HARDWARE, SOFTWARE, AND  
PRODUCTS CONTAINING THE SAME

Inv. No. 337-TA-1026

INITIAL DETERMINATION ON VIOLATION OF SECTION 337

Administrative Law Judge Dee Lord

(October 26, 2017)

**Appearances:**

For Complainant Andrea Electronics Corp.:

William D. Belanger, Esq., Frank D. Liu, Esq., and Brittanee L. Friedman, Esq., of Pepper Hamilton LLP in Boston, MA; Goutam Patnaik, Esq., Bradley T. Lennie, Esq., Tuhin Ganguly, Esq., and David J. Shaw, Esq., of Pepper Hamilton LLP in Washington, DC

For Respondent Apple, Inc.:

David T. Pritikin, Esq., of Sidley Austin LLP in Chicago, IL; Ching-Lee Fukuda, Esq., and Ketan V. Patel, Esq., of Sidley Austin LLP in New York, NY; Michael R. Franzinger, Esq., Thomas A Broughan, III, Esq., and Lauren C. Cranford, Esq., of Sidley Austin LLP in Washington, DC; Steven S. Baik, Esq. and Nathan A. Greenblatt, Esq., of Sidley Austin LLP in Palo Alto, CA

For the Commission Investigative Staff:

R. Whitney Winston, Esq., and Jeffrey Hsu, Esq., of the Office of Unfair Import Investigations, U.S. International Trade Commission, of Washington, D.C.

## PUBLIC VERSION

Pursuant to the Notice of Investigation (Oct. 19, 2016) and Commission Rule 210.42, this is the administrative law judge's final initial determination on violation and recommended determination on remedy and bonding in the matter of *Certain Audio Processing Hardware, Software, and Products Containing the Same*, Inv. No. 337-TA-1026. 19 C.F.R. § 210.42(a)(1).

For the reasons discussed herein, it is my final initial determination that there is no violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, in the importation into the United States, the sale for importation, and/or the sale within the United States after importation of certain audio processing hardware, software, and products containing the same by reason of infringement of U.S. Patent No. 6,363,345 ("the '345 patent").

PUBLIC VERSION

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## PUBLIC VERSION

The following abbreviations may be used in this Initial Determination:

<b>Tr.</b>	Transcript
<b>WS</b>	Witness Statement
<b>DWS</b>	Direct Witness Statement
<b>RWS</b>	Rebuttal Witness Statement
<b>JX</b>	Joint Exhibit
<b>CX</b>	Complainant's exhibit
<b>CPX</b>	Complainant's physical exhibit
<b>CDX</b>	Complainant's demonstrative exhibit
<b>RX</b>	Respondent's exhibit
<b>RPX</b>	Respondent's physical exhibit
<b>RDX</b>	Respondent's demonstrative exhibit
<b>CPHB</b>	Complainant's pre-hearing brief
<b>CIB</b>	Complainant's initial post-hearing brief
<b>CRB</b>	Complainant's reply post-hearing brief
<b>RPHB</b>	Respondent's pre-hearing brief
<b>RIB</b>	Respondent's corrected initial post-hearing brief <sup>1</sup>
<b>RRB</b>	Respondent's reply post-hearing brief
<b>SPHB</b>	Staff pre-hearing brief
<b>SIB</b>	Staff initial post-hearing brief
<b>SRB</b>	Staff reply post-hearing brief

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<sup>1</sup> Apple filed an initial post-hearing brief on September 8, 2017. As originally filed, Apple's initial post-hearing brief included "four references to non-admitted evidence." Letter from M. Franzinger to Secretary Barton (Sept. 14, 2017). On September 14, 2017, Apple filed a corrected version of its post-hearing brief in which the references to non-admitted materials were removed. *Id.* References herein to Apple's initial post-hearing brief are to the corrected version.

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