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

Inv. No. 337-TA-794

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Apple Inc., 1 Infinite Loop, Cupertino, CA 95014, cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, transferring (except for exportation), and soliciting U.S. agents or distributors for, electronic devices, including wireless communication devices, portable music and data processing devices, and tablet computers, covered by one or more of claims 75-76 and 83-84 of United States Patent No. 7,706,348 ("the ’348 patent") in violation of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337).

I. Definitions

As used in this order:

(A) "Commission" shall mean the United States International Trade Commission.

(B) "Complainants" shall mean Samsung Electronics Co., Ltd. ("SEC"), of Seoul, South Korea; and Samsung Telecommunications America, LLC ("STA"), of Richardson, Texas.
(C) "Respondent" shall mean Apple Inc., 1 Infinite Loop, Cupertino, CA 95014.

(D) "Person" shall mean an individual, or any non-governmental partnership, firm, association, corporation, or other legal or business entity other than Respondent or its majority-owned or controlled subsidiaries, successors, or assigns.

(E) "United States" shall mean the fifty States, the District of Columbia, and Puerto Rico.

(F) The terms "import" and "importation" refer to importation for entry for consumption under the Customs laws of the United States.

(G) The term "covered products" shall mean electronic devices, including wireless communication devices, portable music and data processing devices, and tablet computers, covered by one or more of claims 75-76 and 82-84 of the '348 patent. Covered products shall not include articles for which a provision of law or license avoids liability for infringement of claims 75-76 and 82-84 of the '348 patent.

II. Applicability

The provisions of this Cease and Desist Order shall apply to Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by section III, infra, for, with, or otherwise on behalf of, Respondent.

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order.

For the remaining term of the '348 patent, Respondent shall not:
(A) import or sell for importation into the United States covered products;

(B) market, distribute, sell, or otherwise transfer (except for exportation), in the United States imported covered products;

(C) advertise imported covered products;

(D) solicit U.S. agents or distributors for imported covered products; or

(E) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products.

IV.
Conduct Permitted

Notwithstanding any other provision of this Order, Respondent shall be permitted:

(A) on or before June 3, 2015, to distribute refurbished covered articles for use as a replacement for an identical covered article that was imported prior to the date of this order;

(B) to engage in specific conduct otherwise prohibited by the terms of this Order if, in a written instrument, the owner of the '348 patent licenses or authorizes such specific conduct; or

(C) to engage in specific conduct otherwise prohibited by the terms of this Order if such specific conduct is related to the importation or sale of covered products by or for the United States.

V.
Reporting

For purposes of this requirement, the reporting periods shall commence on February 1 of each year and shall end on the subsequent January 31. The first report required under this section shall cover the period from the date of issuance of this order through January 31, 2014.
This reporting requirement shall continue in force until such time as Respondent has truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission: (a) the quantity in units and the value in dollars of covered products that it has (i) imported and/or (ii) sold in the United States after importation during the reporting period, and (b) the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period. When filing written submissions, Respondent must file the original document electronically on or before the deadlines stated above and submit eight (8) true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.4(f)). Submissions should refer to the investigation number ("Inv. No. 337-TA-794") in a prominent place on the cover pages and/or the first page. (See Handbook for Electronic Filing Procedures, http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on电子信息_filing.pdf). Persons with questions regarding filing should contact the Secretary (202-205-2000). If Respondent desires to submit a document to the Commission in confidence, it must file the original and a public version of the original with the Office of the Secretary and must serve a copy of the confidential version on Complainants' counsel.¹

¹ Complainants must file a letter with the Secretary identifying the attorney to receive reports and bond information associated with this order. The designated attorney must be on the protective order entered in the investigation.
Any failure to make the required report or the filing of any false or inaccurate report shall constitute a violation of this Order, and the submission of a false or inaccurate report may be referred to the U.S. Department of Justice as a possible criminal violation of 18 U.S.C. § 1001.

VI. Record-Keeping and Inspection

(A) For the purpose of securing compliance with this Order, Respondent shall retain any and all records relating to the sale, offer for sale, marketing, or distribution in the United States of covered products, made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain.

(B) For the purposes of determining or securing compliance with this Order and for no other purpose, subject to any privilege recognized by the federal courts of the United States, and upon reasonable written notice by the Commission or its staff, duly authorized representatives of the Commission shall be permitted access and the right to inspect and copy, in Respondent’s principal offices during office hours, and in the presence of counsel or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other records and documents, in detail and in summary form, that must be retained under subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

Respondent is ordered and directed to:

(A) Serve, within fifteen days after the effective date of this order, a copy of this Order upon each of its respective officers, directors, managing agents, agents, and
employees who have any responsibility for the importation, marketing, distribution, or sale of imported covered products in the United States;

(B) Serve, within fifteen days after the succession of any persons referred to in subparagraph VII(A) of this order, a copy of the order upon each successor; and

(C) Maintain such records as will show the name, title, and address of each person upon whom the order has been served, as described in subparagraphs VII(A) and VII(B) of this order, together with the date on which service was made.

The obligations set forth in subparagraphs VII(B) and VII(C) shall remain in effect until the’348 patent expires.

VIII.
Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to section VI of this order should be made in accordance with section 201.6 of the Commission’s Rules of Practice and Procedure (19 C.F.R. § 201.6). For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

IX.
Enforcement

Violation of this order may result in any of the actions specified in section 210.75 of the Commission’s Rules of Practice and Procedure (19 C.F.R. § 210.75), including an action for civil penalties under section 337(f) of the Tariff Act of 1930 (19 U.S.C. § 1337(f)), as well as any other action that the Commission deems appropriate. In determining whether Respondent is in violation of this order, the Commission may infer facts adverse to Respondent if it fails to provide adequate or timely information.
X.
Modification

The Commission may amend this order on its own motion or in accordance with the procedure described in section 210.76 of the Commission’s Rules of Practice and Procedure (19 C.F.R. § 210.76).

XI.
Bonding

The conduct prohibited by section III of this order may be continued during the sixty-day period in which this order is under review by the United States Trade Representative, as delegated by the President (70 Fed. Reg. 43,251 (Jul. 21, 2005)), without Respondent posting a bond.

By order of the Commission.

Lisa R. Barton
Acting Secretary to the Commission

Issued: June 4, 2013