

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

**CERTAIN HANDHELD ELECTRONIC
COMPUTING DEVICES, RELATED
SOFTWARE, AND COMPONENTS
THEREOF**

Inv. No. 337-TA-769

**ORDER NO. 23: INITIAL DETERMINATION GRANTING JOINT MOTION OF
COMPLAINANT MICROSOFT CORPORATION AND
RESPONDENTS HON HAI PRECISION INDUSTRY CO., LTD.,
FOXCONN ELECTRONICS, INC., FOXCONN PRECISION
COMPONENT (SHEN ZHEN) CO. LTD. AND FOXCONN
INTERNATIONAL HOLDINGS LTD. FOR PARTIAL
TERMINATION OF THE INVESTIGATION BASED ON
WITHDRAWAL OF THE AMENDED COMPLAINT AS TO THE
FOXCONN/HONHAI RESPONDENTS**

(November 28, 2011)

On November 9, 2010, complainant Microsoft Corporation (“Microsoft”) and respondents Hon Hai Precision Industry Co., Ltd.; Foxconn Electronics, Inc.; Foxconn Precision Component (Shen Zhen) Co., Ltd.; and Foxconn International Holdings Ltd. (collectively Foxconn/Hon Hai Respondents”) filed a joint motion to terminate the Investigation as to the Foxconn/Hon Hai Respondents on the basis of withdrawing the allegations against those respondents set forth in the complaint. (Motion Docket No. 769-028.) Specifically, the Foxconn/Hon Hai Respondents are not currently involved in the manufacture or final assembly (including the loading of software) for importation, sale for importation, importation or sale after importation into the United States of any of the accused Barnes and Noble Nook Products.

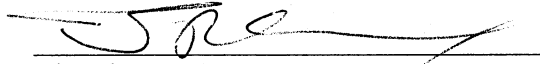
On November 21, 2011, the Commission Investigative Staff (“Staff”) filed a response in support of the motion.

Under Commission Rule 210.21(a)(1), “[a]ny party may move at any time prior to the issuance of an initial determination on violation of section 337 of the Tariff Act of 1930 for an order to terminate an investigation in whole or in part as to any or all respondents . . . for good cause” 19 C.F.R. § 210.21(a)(1). Based on a review of the motion and responses thereto, the ALJ finds that there is good cause for termination of the investigation pursuant to 19 C.F.R. § 210.21(a). The motion states that there no agreements, written or oral, express or implied between the parties concerning the subject matter of the investigation except that (1) the contents of the motion and memorandum may be disclosed publicly and (2) Microsoft and the Foxconn/Hon Hai Respondents may file a joint motion in the U.S. District Court for the Western District of Washington to lift the stay in Civil Action No. 2:11-cv-00485 to dismiss claims against Foxconn/Hon Hai Respondents. (Memo at 1-2.) The ALJ finds that these two requirements are acceptable. Furthermore, the ALJ is not aware of any “extraordinary circumstances” that would preclude granting the motion to terminate. *Certain Ultra filtration Membrane Systems, and Components Thereof, Including Ultra filtration Membranes*, Inv. No. 337-TA-107, Commission Action and Order at 2 (March 11, 1982). In addition, when a complainant seeks to terminate based on withdrawal of the complaint, public policy supports termination in order to conserve public and private resources. *See Certain Semiconductor Light Emitting Devices, Components Thereof, and Products Containing Same*, Inv. No. 337-TA-444, Order No. 7 (June 27, 2001) (unreviewed initial determination).

Accordingly, it is the Initial Determination of the ALJ that the motion to terminate this investigation as to respondents Hon Hai Precision Industry Co., Ltd.; Foxconn Electronics, Inc.; Foxconn Precision Component (Shen Zhen) Co., Ltd.; and Foxconn International Holdings Ltd. be GRANTED.

Pursuant to 19 C.F.R. § 210.42(h), this Initial Determination shall become the determination of the Commission unless a party files a petition for review of the Initial Determination pursuant to 19 C.F.R. § 210.43(a), or the Commission, pursuant to 19 C.F.R. § 210.44, orders, on its own motion, a review of the Initial Determination or certain issues here.

SO ORDERED

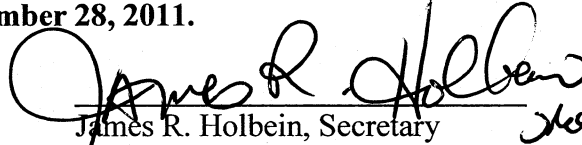

Theodore R. Essex
Administrative Law Judge

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PUBLIC CERTIFICATE OF SERVICE

I, James R. Holbein, hereby certify that the attached **INITIAL DETERMINATION** has been served by hand upon the Commission Investigative Attorney, **Jeffrey Hsu, Esq.**, and the following parties as indicated on **November 28, 2011**.


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PUBLIC CERTIFICATE3 OF SERVICE – PAGE TWO

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