

Peabody also stated its intention to amend the pending permit revision application for the Black Mesa Mine Complex to remove proposed plans and activities that supported supplying coal to MGS. By amending the permit revision application, the proposed project would be reduced to permitting the Black Mesa Complex mining operations as described and analyzed as Alternative B of the draft EIS. Alternative B is now the preferred alternative.

## II. Background on the Black Mesa Project EIS

Pursuant to the National Environmental Policy Act of 1969 (NEPA), OSM prepared a draft EIS analyzing the effects of the proposed Black Mesa Project. It analyzed effects of the following three alternatives.

### Alternative A

- Approval of Peabody's life-of-mine permit revision for the Black Mesa Mine Complex (Black Mesa and Kayenta Mines), including mining of coal to supply the Mohave Generating Station, a new coal wash plant and associated coal waste disposal, and construction, use, and maintenance of a new haul road between mine areas on the southern ends of Peabody's coal leases;
- Approval of Black Mesa Pipeline's existing coal-slurry preparation plant and rebuilding the 273-mile-long coal-slurry pipeline to the Mohave Generating Station; and
- Approval of a new Coconino Aquifer water-supply system, including a 108-mile-long pipeline to convey the water to the minesite.

### Alternative B

- Conditional approval of Peabody's life-of-mine permit revision, including incorporation of the Black Mesa Mine surface facilities and coal deposits into the Kayenta Mine permit area and construction, use, and maintenance of a haul road between mine areas on the southern ends of Peabody's coal leases;
- No approval for coal mining at the Black Mesa Mine to supply the Mohave Generating Station;
- No approval to reconstruct the coal-slurry pipeline; and
- No approval to construct the Coconino Aquifer water-supply system.

### Alternative C

- Disapproval of Peabody's life-of-mine permit revision.
  - No approval for mining coal at the Black Mesa Mine to supply the Mohave Generating Station but continued operation of mining at the Kayenta Mine to supply coal to the Navajo Generating

Station, because Peabody already has an approved permit for this mine and has the right of successive permit renewals;

- No incorporation of Black Mesa Mine surface facilities and coal deposits into the Kayenta Mine permit area;
- No approval to reconstruct the coal-slurry pipeline; and
- No approval to construct the Coconino Aquifer water-supply system.

At the time the draft EIS was released, the purpose of the proposed project was to continue to supply coal to MGS and to the Navajo Generating Station, and Alternative A in the draft EIS described the proposed project. In letters dated February 25 and April 30, 2008, Peabody notified OSM that it did not intend to continue to supply coal to MGS in the future because it believed the reopening of MGS is remote. Peabody would continue to supply coal to the Navajo Generating Station and stated its intention to amend the pending permit revision application for the Black Mesa Mine Complex to remove proposed plans and activities that supported supplying coal to MGS. Specifically, the pending permit revision application would be amended to (1) remove the plans for a coal wash plant and coal waste disposal site, (2) modify the probable hydrologic consequences section of the application to indicate use of 1,236 ac-ft/yr of Navajo aquifer water for domestic and mine-related uses instead of the initially proposed long-term average of about 2,000 ac-ft/yr for mine-related uses and as a backup water supply to the proposed new Coconino aquifer water supply, and (3) remove the plan for a new road between the southern parts of its coal leases. By amending the permit revision application, the proposed project is reduced to permitting the Black Mesa Complex mining operations as described and analyzed as Alternative B of the draft EIS, except that the new road that was included in Alternative B is no longer being proposed. In the analysis of alternative B in the draft EIS, OSM had considered the impacts of the proposed new road that would have disturbed 127 acres. With elimination of the plans for a new proposed road, the impacts would be less than those identified in the draft EIS for Alternative B.

More information about the project and EIS can be found on OSM's Internet Web site at <http://www.wrcc.osmre.gov/WR/BlackMesaEIS.htm>.

## III. Public Comment Procedures

**Written Comments:** If you submit written comments, they should be specific, confined to issues pertinent to the draft EIS, and explain the reason for

any recommended changes. Please indicate the chapter, page, paragraph, and sentence of the draft EIS your comments pertain to.

We will make every attempt to log all comments into the record for this draft EIS; however, we cannot ensure that comments received after the close of the comment period (see **DATES**) or sent to a location other than those listed above (see **ADDRESSES**) will be included in the record and considered.

### Public Availability of Comments:

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: May 6, 2008.

**Allen D. Klein,**

*Regional Director, Western Region.*

[FR Doc. E8-11265 Filed 5-22-08; 8:45 am]

**BILLING CODE 4310-05-P**

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-598]

### In the Matter of Certain Unified Communications Systems, Products Used With Such Systems, and Components Thereof; Notice of Commission Decision to Reverse-in-Part and Modify-in-Part a Final Initial Determination Finding a Violation of Section 337 and Termination of the Investigation With a Finding of No Violation

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined to reverse-in-part and modify-in-part a final initial determination ("ID") of the presiding administrative law judge ("ALJ"). The Commission has determined that there is no violation of section 337 in the above-captioned investigation.

### FOR FURTHER INFORMATION CONTACT:

Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 708-5468. Copies of non-confidential documents filed in connection with this investigation are or will be available for

inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on March 26, 2007, based on a complaint filed by Microsoft Corporation ("Microsoft") of Redmond, Washington. 72 FR 14138-9. The complaint, as amended and supplemented, alleges violations 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 the sale within the United States after importation of certain unified communications systems, products used with such systems, and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 6,421,439 ("the '439 patent'"); 6,430,289; 6,263,064 ("the '064 patent'"); and 6,728,357. The complaint further alleges the existence of a domestic industry. The Commission's notice of investigation named Alcatel-Lucent ("ALE") of Paris, France as the only respondent.

On April 20, 2007, Microsoft moved to amend the complaint to: (1) Substitute Alcatel Business Systems for Alcatel-Lucent as respondent in this investigation, and (2) add allegations of infringement of claims 8, 28, 38, and 48 of the '439 patent, and claim 20 of the '064 patent. Respondent and the Commission investigative attorney ("IA") did not oppose the motion.

On May 17 and September 20, 2007, respectively, the Commission determined not to review IDs, issued by the presiding ALJ, granting Microsoft's motions to amend the complaint and to terminate the investigation in part based on Microsoft's withdrawal of certain claims. On October 23 and October 26, 2007, respectively, the Commission determined not to review IDs, issued by the presiding ALJ, granting Microsoft's motion to terminate the investigation in part based on Microsoft's withdrawal of certain claims and granting ALE's motion to amend the complaint.

On January 28, 2008, the ALJ issued his final ID and recommended determinations on remedy and bonding. The ALJ found a violation of section 337 based on his findings that the respondent's accused products infringe claims 1 and 28 of the '439 patent, and that those claims were not proven invalid and that the domestic industry and importation requirements of section 337 were met as to those claims. On February 11, 2008, all parties, including the IA, filed petitions for review of the final ID. On February 19, 2008, all parties filed responses to the petitions for review.

On March 14, 2008, the Commission determined to review-in-part the final ID. Particularly, the Commission determined to review: (1) The ALJ's construction of the claim term "current activity of subscribers on the computer network;" (2) the ALJ's determination that ALE's OXE system directly and indirectly infringes the '439 patent; (3) the ALJ's determination that ALE's OXO system does not infringe the '439 patent; (4) the ALJ's determination that claims 1 and 28 of the '439 patent are not invalid in view of U.S. Patent No. 6,041,114 ("the '114 patent") or U.S. Patent No. 5,652,789 ("the '789 patent"); (5) the ALJ's determination that claim 38 of the '439 patent is invalid in view of the '114 patent; and (6) the ALJ's determination that claim 38 is not invalid in view of the '789 patent.

With respect to violation, the Commission requested written submissions from the parties relating to the following issues:

(1) The ALJ's finding that the "current activity of the user on the computer network" as found in the '439 patent "can consist of both user-selected indicators based on user activity (e.g., 'conditional processing' as per the '439 specification) and the transfer of data between the computer and telephone networks while the user is engaged in a VoIP phone call" (ID at 47), and the implications of this finding for the infringement and invalidity analyses;

(2) What is the exact demarcation between the '439 patent claim terms "telephone network" and "computer network" as it relates to claim construction, invalidity using the '114 and '789 patents, and the infringement analysis for a Voice-over-IP (VoIP) communication system;

(3) Whether the PBX and telecommute server of the '114 patent, functioning together, can be considered to disclose the "network access port" and "controller" limitations of claim 1 of the '439 patent to anticipate this claim;

(4) To what extent, if any, does anticipation of claims 1 and 28 of the '439 patent depend on a finding that the claim limitations are inherently disclosed by the '114 and '789 patents; and

(5) Please comment on Microsoft's argument that the ALJ, when construing the

term "current activity" to mean "either the status of the user or subscriber at the present time or the most recent status of a user or subscriber," did so in a manner inconsistent with Federal Circuit precedent. Complainant Microsoft's Contingent Petition for Review at 9. In addressing this argument, please address *Free Motion Fitness, Inc. v. Cybex Int'l, Inc.*, 423 F.3d 1343 (Fed. Cir. 2005) ("[u]nder *Phillips*, the rule that 'a court will give a claim term the full range of its ordinary meaning,' \* \* \* does not mean that the term will presumptively receive its broadest dictionary definition or the aggregate of multiple dictionary definitions \* \* \*") and *Impax Labs, Inc. v. Aventis Pharms, Inc.* 468 F.3d 1368, 1374 (Fed. Cir. 2006) ("claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term its broadest reasonable construction consistent with the specification").

73 FR 15005-07.

Further, the Commission requested written submissions on the issues of remedy, the public interest, and bonding. *Id.*

On March 24 and March 31, 2008, respectively, the complainant Microsoft, the respondent ALE, and the IA filed briefs and reply briefs on the issues for which the Commission requested written submissions.

Having reviewed the record in this investigation, including the final ID and the parties' written submissions, the Commission has determined to reverse-in-part and modify-in-part the ID. Particularly, the Commission has modified the ALJ's claim construction of the term "current activity of the user on the computer network" in claims 1, 28, and 38 of the '439 patent to be "the current status of the user on the computer network" where "current status" includes "either the status of a user or subscriber at the present time or the most recent status of a user or subscriber." Further, the Commission has reversed the ALJ's ruling of infringement of the '439 patent by ALE's OXE system and determined that this system does not infringe claims 1, 28, and 38 under at least the Commission's modified claim construction of "current activity of the user on the computer network." The Commission has also affirmed the ALJ's ruling of non-infringement of the '439 patent by ALE's OXO system. In addition, the Commission has reversed the ALJ's finding that claims 1 and 28 are not invalid in view of the '114 patent or the '789 patent, reversed the ALJ's finding that claim 38 is not invalid in view of the '789 patent, and affirmed the ALJ's finding that claim 38 is invalid in view of the '114 patent. Particularly, the Commission has determined that claims 1, 28, and 38 are invalid in view of the

'114 patent, and are also invalid in view of the '789 patent.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in sections 210.45 and 210.50 of the Commission's Rules of Practice and Procedure (19 CFR 210.45, 210.50).

Issued: May 19, 2008.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. E8-11578 Filed 5-22-08; 8:45 am]

BILLING CODE 7020-02-P

## INTERNATIONAL TRADE COMMISSION

[USITC SE-08-014]

### Government in the Sunshine Act Meeting Notice; Change of Time for Government in the Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** United States International Trade Commission.

**DATE OF MEETING:** May 28, 2008 at 11 a.m.

**ORIGINAL TIME OF MEETING:** 11 a.m.

**NEW TIME OF MEETING:** 10:45 a.m.

**PLACE:** Room 101, 500 E Street, SW., Washington, DC 20436, Telephone: (202) 205-2000.

**STATUS:** Open to the public.

**ACTION:** In accordance with 19 CFR 201.37, public notice is hereby given that the Commission has determined to change the time of the Government in the Sunshine Act Meeting scheduled for May 28, 2008 from 11 a.m. to 10:45 a.m.

Earlier announcement of this action was not possible.

Issued: May 20, 2008.

By order of the Commission.

**William R. Bishop,**

*Hearings and Meetings Coordinator.*

[FR Doc. E8-11657 Filed 5-22-08; 8:45 am]

BILLING CODE 7020-02-P

## DEPARTMENT OF JUSTICE

[OMB Number 1122-0016]

### Office on Violence Against Women; Agency Information Collection Activities: Revision of a Currently Approved Collection; Comments Requested

**ACTION:** 30-Day Notice of Information Collection Under Review: Semi-Annual Progress Report for the Grantees from the Transitional Housing Assistance Grant Program

The Department of Justice, Office on Violence Against Women (OVW) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 73, Number 53, pages 14487 and 14488 on March 18, 2008, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until June 23, 2008. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395-5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

### Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *Title of the Form/Collection:* Semi-Annual Progress Report for Grantees of

the Transitional Housing Assistance Grant Program.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: 1122-0016. U.S. Department of Justice, Office on Violence Against Women.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* The affected public includes the approximately 120 grantees of the Transitional Housing Assistance Grant Program (Transitional Housing Program) whose eligibility is determined by statute. This discretionary grant program provides transitional housing, short-term housing assistance, and related support services for individuals who are homeless, or in need of transitional housing or other housing assistance, as a result of fleeing a situation of domestic violence, dating violence, sexual assault, or stalking, and for whom emergency shelter services or other crisis intervention services are unavailable or insufficient. Eligible applicants are States, units of local government, Indian tribal governments, and other organizations, including domestic violence and sexual assault victim services providers, domestic violence or sexual assault coalitions, other nonprofit, nongovernmental organizations, or community-based and culturally specific organizations, that have a documented history of effective work concerning domestic violence, dating violence, sexual assault, or stalking.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that it will take the 120 respondents (grantees) approximately one hour to complete the semi-annual progress report. The semi-annual progress report is divided into sections that pertain to the different types of activities that grantees may engage in and the different types of grantees that receive funds. A Transitional Housing Program grantee will only be required to complete the sections of the form that pertain to its own specific activities.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the data collection forms is 240 hours, that is 120 grantees completing a form twice a year with an estimated completion time for the form being one hour.

If additional information is required contact: Lynn Bryant, Deputy Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Suite 1600,