

enforceability. In the event the Commission found a violation of section 337, the ALJ recommended that the appropriate remedy is a limited exclusion order barring entry of LG's infringing products. The ALJ also recommended issuance of cease and desist orders against LG Electronics USA and LG Display America. The ALJ further recommended that LG be required to post a bond of one percent of the entered value of each infringing product for the importation of products found to infringe during the period of Presidential review.

On November 5, 2012, ITRI filed a petition for review of certain aspects of the final ID. Also on November 5, 2012, participating respondents LG Electronics, Inc., LG Electronics U.S.A., Inc., LG Display Co., Ltd., and LG Display America, Inc. (collectively "LG") filed a contingent petition for review of certain aspects of the ID. On November 13, 2012, ITRI filed a response to LG's contingent petition for review. Also on November 13, 2012, LG filed a response to ITRI's petition for review. Further on November 13, 2012, the Commission investigative attorney filed a combined response to ITRI's and LG's petitions. No post-RD statements on the public interest pursuant to Commission Rule 210.50(a)(4) or in response to the post-RD Commission Notice issued on October 24, 2012, were filed. See 77 FR 65579 (Oct. 29, 2012).

Having examined the record of this investigation, including the ALJ's final ID, the petitions for review, and the responses thereto, the Commission has determined to review the final ID in its entirety. The Commission does not seek further briefing at this time. The Commission also remands the investigation to the ALJ to consider parties' invalidity and unenforceability arguments and make appropriate findings.<sup>1</sup> In light of the remand, the ALJ shall set a new target date consistent with the Remand Order.

Briefing, if any, on remanded and reviewed issues will await Commission consideration of the remand ID. The current target date for this investigation is February 28, 2013.

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 210.42–46 and 210.50 of the

Commission's Rules of Practice and Procedure (19 CFR 210.42–46 and 210.50).

By order of the Commission.  
Issued: December 21, 2012.

**Lisa R. Barton,**

*Acting Secretary to the Commission.*

[FR Doc. 2012–31330 Filed 12–28–12; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–799]

### **Certain Computer Forensic Devices and Products Containing Same; Commission Determination Not To Review the Final Initial Determination of the Administrative Law Judge; Termination of the Investigation**

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

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined not to review the final initial determination ("final ID" or "ID") of the presiding administrative law judge in the above-identified investigation.

#### **FOR FURTHER INFORMATION CONTACT:**

James A. Worth, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–3065. 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 (<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 August 29, 2011, based on a complaint filed by MyKey Technology Inc. ("MyKey") of Gaithersburg, Maryland. 76 FR 53695 (Aug. 29, 2011). The complaint 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 computer forensic devices and products containing the same by reason of infringement of claims 1–8, 11–13, 16–38 and 40–45 of U.S. Patent No. 6,813,682 (the "'682 patent"), claims 1–9, 13–18 and 20–21 of U.S. Patent No. 7,159,086 and claims 1 and 2 of U.S. Patent No. 7,228,379 (the "'379 patent"). The notice of investigation named as respondents Data Protection Solutions by Arco of Hollywood, Florida; CRU Acquisitions Group LLC of Vancouver, Washington d/b/a CRU-DataPort LLC of Vancouver, Washington ("CRU"); Digital Intelligence, Inc. of New Berlin, Wisconsin ("Digital Intelligence"); Diskology, Inc. of Chatsworth, California; Guidance Software, Inc. of Pasadena, California and Guidance Tableau LLC of Pasadena, California (collectively, "Guidance"); Ji2, Inc. of Cypress, California; MultiMedia Effects, Inc. of Markham, Ontario; Voom Technologies, Inc. of South Lakeland, Minnesota; and YEC Co. Ltd. of Tokyo, Japan.

Only respondents Guidance, CRU, and Digital Intelligence remain in the investigation. The complainant has also narrowed the claims asserted to claims 1–8, 11–13, 16–21, 24–36, and 40–45 of the '682 patent and claim 2 of the '379 patent.

An evidentiary hearing was held from August 6 to August 10, 2012.

On October 26, 2012, the ALJ issued the final ID, finding no violation of Section 337. The ALJ found that MyKey had failed to satisfy the economic prong of the domestic industry requirement. No petitions for review of the ID were filed.

The Commission would ordinarily remand this investigation to the ALJ to address in the final ID all material issues presented because a hearing has concluded and all issues have been fully briefed before the ALJ. 19 CFR 210.42(d); see also *Certain Video Game Systems and Wireless Controllers and Components Thereof*, Inv. 337–TA–770, Comm'n Op. at n.1 (Nov. 6, 2012). However, the Commission has determined not to review the ID in this investigation based upon the extraordinary factual situation and the parties' failure to file petitions for review. This investigation is hereby terminated.

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 Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

<sup>1</sup> The ALJ should have resolved these issues given the procedural posture of this investigation (*i.e.*, post-hearing), and the absence of an extraordinary fact situation that would weigh heavily against resolving these material issues presented in the record. See *Certain Video Game Systems and Wireless Controllers and Components Thereof*, Inv. 337–TA–770, Comm'n Op. at n.1 (Nov. 6, 2012).

By order of the Commission.  
Issued: December 21, 2012.

**Lisa R. Barton,**

*Acting Secretary to the Commission.*

[FR Doc. 2012-31331 Filed 12-28-12; 8:45 am]

**BILLING CODE 7020-02-P**

## JUDICIAL CONFERENCE

### Hearings of the Judicial Conference Advisory Committee on Rules of Evidence

**Federal Register** Citation of Previous Announcement: 77 FR 49828 (August 17, 2012).

**AGENCY:** Advisory Committee on Rules of Evidence, Judicial Conference of the United States.

**ACTION:** Notice of Cancellation of Open Hearing.

**SUMMARY:** The following public hearing on proposed amendments to the Federal Rules of Evidence has been canceled: Evidence Rules Hearing, January 22, 2013, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Benjamin J. Robinson, Deputy Rules Officer and Counsel, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502-1820.

Dated: December 24, 2012.

**Benjamin J. Robinson,**

*Rules Committee Deputy and Counsel.*

[FR Doc. 2012-31449 Filed 12-28-12; 8:45 am]

**BILLING CODE 2210-55-P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

**United States v. Apple, Inc., Hachette Book Group, Inc., HarperCollins Publishers L.L.C., Verlagsgruppe Georg Von Holtzbrinck GmbH, Holtzbrinck Publishers, LLC D/B/A Macmillan, The Penguin Group, A Division of Pearson PLC, Penguin Group (USA), Inc., and Simon & Schuster, Inc.; Proposed Final Judgment and Competitive Impact Statement**

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h), that a proposed Final Judgment, Stipulation and Competitive Impact Statement have been filed with the United States District Court for the Southern District of New York in *United States of America v. Apple, Inc. et al.*, Civil Action No. 12-CV-2826 (DLC). On April 11, 2012, the United States filed a Complaint alleging that the defendants

agreed to raise the retail price of e-books, in violation of Section 1 of the Sherman Act, 15 U.S.C. 1. On September 6, 2012, a Final Judgment as to defendants Hachette Book Group, Inc., HarperCollins Publishers L.L.C., and Simon & Schuster, Inc. was entered by the United States District Court for the Southern District of New York. On December 18, 2012, the United States filed a proposed Final Judgment as to defendants The Penguin Group, a division of Pearson plc, and Penguin Group (USA), Inc.—to return pricing discretion to e-book retailers and comply with other obligations designed to end the anticompetitive effects of the conspiracy.

Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection at the Department of Justice, Antitrust Division, Antitrust Documents Group, 450 Fifth Street NW., DC 20530 Suite 1010 (telephone: 202-514-2481), on the Department of Justice's Web site at <http://www.justice.gov/atr>, and at the Office of the Clerk of the United States District Court for the Southern District of New York. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such comments will be filed with the Court and will either be published in the **Federal Register** or, with the permission of the Court, will be posted electronically on the Department of Justice's Web site. Comments should be directed to John R. Read, Chief, Litigation III Section, Antitrust Division, Department of Justice, Washington, DC 20530 (telephone: 202-307-0468).

**Patricia A. Brink,**

*Director of Civil Enforcement.*

### United States District Court for the Southern District of New York

*United States of America, Plaintiff, v. Apple, Inc., Hachette Book Group, Inc., HarperCollins Publishers L.L.C., Verlagsgruppe Georg Von Holtzbrinck GmbH, Holtzbrinck Publishers, Llc d/b/a Macmillan, The Penguin Group, A Division Of Pearson Plc, Penguin Group (Usa), Inc., And Simon & Schuster, Inc., Defendants.*

*Civil Action No. 1:12-cv-02826.*

*Judge: Cote, Denise.*

*Date Filed: 04/11/2012.*

*Description: Antitrust.*

### Complaint

The United States of America, acting under the direction of the Attorney

General of the United States, brings this civil antitrust action against Defendants Apple, Inc. ("Apple"); Hachette Book Group, Inc. ("Hachette"); HarperCollins Publishers L.L.C. ("HarperCollins"); Verlagsgruppe Georg von Holtzbrinck GmbH and Holtzbrinck Publishers, LLC d/b/a Macmillan (collectively, "Macmillan"); The Penguin Group, a division of Pearson plc and Penguin Group (USA), Inc. (collectively, "Penguin"); and Simon & Schuster, Inc. ("Simon & Schuster"; collectively with Hachette, HarperCollins, Macmillan, and Penguin, "Publisher Defendants") to obtain equitable relief to prevent and remedy violations of Section 1 of the Sherman Act, 15 U.S.C. § 1. Plaintiff alleges:

### I. Introduction

1. Technology has brought revolutionary change to the business of publishing and selling books, including the dramatic explosion in sales of "e-books"—that is, books sold to consumers in electronic form and read on a variety of electronic devices, including dedicated e-readers (such as the Kindle or the Nook), multipurpose tablets, smartphones and personal computers. Consumers reap a variety of benefits from e-books, including 24-hour access to product with near-instant delivery, easier portability and storage, and adjustable font size. E-books also are considerably cheaper to produce and distribute than physical (or "print") books.

2. E-book sales have been increasing rapidly ever since Amazon released its first Kindle device in November of 2007. In developing and then mass marketing its Kindle e-reader and associated e-book content, Amazon substantially increased the retail market for e-books. One of Amazon's most successful marketing strategies was to lower substantially the price of newly released and bestselling e-books to \$9.99.

3. Publishers saw the rise in e-books, and particularly Amazon's price discounting, as a substantial challenge to their traditional business model. The Publisher Defendants feared that lower retail prices for e-books might lead eventually to lower wholesale prices for e-books, lower prices for print books, or other consequences the publishers hoped to avoid. Each Publisher Defendant desired higher retail e-book prices across the industry before "\$9.99" became an entrenched consumer expectation. By the end of 2009, however, the Publisher Defendants had concluded that unilateral efforts to move Amazon away from its practice of offering low retail prices would not work, and they