

**UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.**

In the Matter of

**CERTAIN WIRELESS CONSUMER
ELECTRONICS DEVICES AND
COMPONENTS THEREOF**

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Investigation. No. 337-TA-853

PUBLIC COMMENT – UNITED STATES CELLULAR CORPORATION

Kenneth R. Meyers
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December 23, 2013

In response to the Notice of Commission Determination issued on November 25, 2013 by the United States International Trade Commission (“the Commission”) in Investigation No. 337-TA-853 (“the Notice”), third party United States Cellular Corporation (“U.S. Cellular”) provides the following comments.

Overview of U.S. Cellular

U.S. Cellular owns, operates, and invests in wireless markets throughout the United States, providing wireless telecommunications services to approximately 5 million customers over 23 states. We provide a comprehensive range of wireless products and services, from inexpensive prepaid phones to full-featured smartphones, and are known for our excellent customer support and high-quality network.

U.S. Cellular maintains business relationships with Respondent Samsung Electronics Co., Ltd. in investigation No. 337-TA-853. U.S. Cellular’s product offerings include many Samsung products.

Scope of the Exclusion Order

U.S. Cellular has a large and important business relationship with Samsung. Samsung handsets make up approximately 45% of the total handsets sold by U.S. Cellular. Because of the high volume of Samsung products that U.S. Cellular markets, U.S. Cellular is very concerned that any exclusion order would lead to damaging interruptions in U.S. Cellular’s supply chain. In addition, an insufficiently defined or overly broad exclusion order also would lead to enforcement problems that would damage and interrupt U.S. Cellular’s supply chain. Therefore, U.S. Cellular requests that should the Commission decide an Exclusion Order is warranted in this investigation, it consider adopting a specifically tailored Exclusion Order that will provide thorough guidance to customs officers to ensure timely and predictable enforcement of the Order so as to protect certainty in the marketplace. Difficulty in enforcement could result in substantial and damaging delay in deliveries as customs officials would need to seek clarity and guidance from the Commission before completing their inspections.

In particular, delay and disruption of U.S. Cellular’s supply of Samsung products as a result of an imprecise Exclusion Order could have substantial deleterious effects on U.S. Cellular’s business and therefore the mobile phone market as a whole. Samsung and U.S. Cellular interact in a marketplace with a rapid product life cycle. New Samsung models are produced every year, from inexpensive feature phones to top-of-the-line smartphones. Even if some products are found to infringe, U.S. Cellular will continue to market and sell non-infringing and redesigned Samsung products. Many of the products examined by the ALJ in June of 2013 will no longer be sold by U.S. Cellular by the time the Commission enters its final determination in February of 2014. Many new Samsung models will be ordered by U.S. Cellular and imported by Samsung that have not been considered by the Commission. These models will need to be scrutinized by customs officials under the terms of the Exclusion Order, should one issue, and without proper guidance, such scrutiny could cause substantial disruption to the product pipeline on which U.S. Cellular and its customers rely.

Because of the substantial risk of disruption and delay that an Exclusion Order could bring to U.S. Cellular's business, U.S. Cellular asks that the Commission provide substantial guidance to the Customs Enforcement Agency and the public on the scope of the patent, should an Exclusion Order issue, so that determination on new Samsung models can be made in a timely, predictable fashion.

Any Exclusion Order Should Provide For A Transition Period

As mentioned above, Samsung provides U.S. Cellular with a wide range of products across all price levels. Replacing those products – either through purchase or non-infringing alternatives from other manufacturers or non-infringing re-designs of Samsung products – will take many months. This is particularly true with respect to several Samsung 4G LTE devices that operate on Band 12 because most other major device manufacturers have not incorporated Band 12 into their devices. Though the Commission provides a short period during which products found to be infringing may continue to be imported, the Commission's traditional two-month period is not sufficient for U.S. Cellular to avoid substantial disruption of its business. U.S. Cellular therefore requests that the Commission provide a transition period of at least six months.

Although important business decisions with respect to Samsung products are typically made six months in advance, Samsung produces the products to order and ships them directly from its factories to U.S. Cellular. As stated, Samsung's products account for a very large volume and variety of U.S. Cellular's consumer offerings. Therefore, changing purchases from Samsung to other manufacturers would obviate months of prior business decisions and require several months of lead time in order to ensure continuity of supply. Other manufacturers would also need this time to ramp-up production to satisfy U.S. Cellular's demand. U.S. Cellular anticipates it would take a least six months to fully replace Samsung's products in our lineup.

A shorter transition period would be disruptive to U.S. Cellular and the marketplace as a whole for the same reasons discussed above. If there is insufficient time for U.S. Cellular to find replacement products for Samsung products, severe product shortages would result for U.S. Cellular's customers. U.S. Cellular would endure costly and damaging disruptions to its product pipeline as it waits for other manufacturers to ramp-up production to accommodate U.S. Cellular's increased demand for their products. For these reasons, U.S. Cellular requests that the Commission take into account the significant negative impact any exclusion order against Samsung's products could have on carriers before making any determination regarding remedy and provide a sufficient period to enable U.S. Cellular to continue purchasing imported Samsung products while we transition to non-infringing alternatives.

Exception For Existing Warranty Obligations

Finally, U.S. Cellular requests that any exclusion order provide for an exception to phones imported pursuant to an existing warranty obligation.

U.S. Cellular currently has existing warranty obligations to a large number of its customers that cover Samsung products that could be found to infringe the asserted patent. In the event that a customer wishes to warranty a Samsung phone sold by U.S. Cellular, it is

common practice to ship the product to a warranty provider and then import the serviced product or a replacement product back into the United States. An Exclusion Order that does not carve out an exception for such a practice would leave U.S. Cellular unable to fulfill its existing contractual obligations. Therefore, U.S. Cellular requests that the Commission include in any Exclusion Order an exception for serviced products covered by existing warranties.

Respectfully submitted,

/s/ Kenneth R. Meyers

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