



## ITC once again sides with Apple, RIM in Kodak patent spat

In a new ruling, the U.S. International Trade Commission says Apple and Research In Motion are not violating one of Kodak's patents.

by [Josh Lowensohn](#) May 21, 2012 10:27 AM PDT

The U.S. International Trade Commission today once again said Apple and Research In Motion are not infringing on a patent held by Eastman Kodak.

ITC administrative law judge Thomas Pender today posted his [initial determination](#) (PDF) in the case, reaffirming a decision the group made last year that the two companies were not infringing on one of Kodak's patents with their mobile devices:

I hereby reaffirm on remand that no violation of Section 337 of the Tariff Act of 1930, as amended, has been found in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain mobile telephones and wireless communication devices featuring digital cameras, and components thereof, in connection with claim 15 of U.S. Patent No. 6,292,218.

The decision notes that devices from Apple and RIM were, in fact, infringing on one of the claims made within the patent, but recommends that the specific claim is invalid "for obviousness." In Apple's case, that was only the [iPhone 3G](#), while the [iPhone 3GS](#) and [iPhone 4](#) were found not to infringe. In a separate [complaint against Samsung](#), an ITC administrative law judge found the same patent valid.

In a [statement](#), Kodak said it is pleased with the ITC's decision, but that it would vie to keep the patent in play.

"We are pleased the ALJ has concluded that Kodak's patent is infringed by Apple and RIM," said Timothy Lynch, Kodak's vice president and chief intellectual property officer. "We expect to appeal to the full Commission his recommendation on validity. The ALJ's recommendation represents a preliminary step in a process that we are confident will conclude in Kodak's favor."

CNET has reached out to Apple and RIM for comment, and we will update this story if we hear back.

Kodak originally filed its complaint against the two technology companies on January 14, 2010, alleging that they infringed on U.S. Patent No. 6,292,218, which covers image previewing technology for cameras. Kodak sought to get smartphones from both companies blocked from entering the U.S., arguing that their cameras made use of image previewing technology covered by a Kodak patent.

Last January, an administrative law judge [found no violation of the patent](#), however the ITC's commission decided to review that decision. Making matters more complex, the ITC's chief administrative law judge retired, and the case was transferred to Pender, leading [to further delays](#).

The ruling is preliminary and needs to be approved by the ITC's full six-member commission. A final ruling in the matter is due by September 21, 2012.

Kodak, which filed for Chapter 11 bankruptcy protection in January, is in the midst of attempting to sell off its patent portfolio. In court documents [filed last week](#), it accused Apple of trying to put a wrench in those plans to keep from paying royalties, as well as to get a lower price if it ends up being the buyer.

Technology companies in recent years have increasingly turned to the ITC to settle their disputes. Companies can pursue an ITC case in parallel with civil lawsuits, and the threat of an embargo on products typically forces companies to settle more quickly.

UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, D.C.

In the Matter of

**CERTAIN MOBILE TELEPHONES AND  
WIRELESS COMMUNICATION DEVICES  
FEATURING DIGITAL CAMERAS, AND  
COMPONENTS THEREOF**

**Inv. No. 337-TA-703  
(Remand)**

**Notice Regarding Initial Determination On Remand on Violation of Section 337**

(May 21, 2012)

On this date, I issued an Initial Determination On Remand on violation of section 337 in the above-referenced investigation. Attached are the first page and the conclusions of law from said filing, which are a matter of public record. A complete public version of the Initial Determination On Remand will issue when all the parties have submitted their redactions and I have had an opportunity to review the redactions.

**SO ORDERED.**

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Thomas B. Pender  
Administrative Law Judge

**UNITED STATES INTERNATIONAL TRADE COMMISSION**  
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**In the Matter of**

**CERTAIN MOBILE TELEPHONES AND  
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**Inv. No. 337-TA-703  
(Remand)**

**INITIAL DETERMINATION ON REMAND ON VIOLATION OF SECTION 337**

**Administrative Law Judge Thomas B. Pender**

**(May 21, 2012)**

Pursuant to the Notice of Investigation and Rule 210.42(a) of the Rules of Practice and Procedure of the United States International Trade Commission, this is my Initial Determination on Remand in the matter of Certain Mobile Telephones and Wireless Communication Devices Featuring Digital Cameras, and Components Thereof, No. 337-TA-703.

I hereby reaffirm on remand that no violation of Section 337 of the Tariff Act of 1930, as amended, has been found in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain mobile telephones and wireless communication devices featuring digital cameras, and components thereof, in connection with claim 15 of U.S. Patent No. 6,292,218.

## **VI. Conclusions of Law**

1. The accused Apple iPhone 3G infringes claim 15 of the '218 patent.
2. The accused Apple iPhone 3GS and iPhone 4 do not infringe claim 15 of the '218 patent.
3. The accused RIM products infringe claim 15 of the '218 patent.
4. Claim 15 of the '218 patent is invalid under 35 U.S.C. § 103 for obviousness.
5. Apple has not violated 19 U.S.C. § 1337(a)(1) with respect to the '218 patent.
6. RIM has not violated 19 U.S.C. § 1337(a)(1) with respect to the '218 patent.

Monday, May 21, 2012

## Kodak Receives Notice of Initial Determination in ITC Patent Infringement Action against Apple and Research In Motion

ROCHESTER, N.Y., May 21 – Eastman Kodak Company today announced that it has received notice of the Administrative Law Judge’s (ALJ) initial determination in the U.S. International Trade Commission (ITC) action brought by Kodak against Apple Inc. and Research In Motion Limited (RIM). The ALJ concluded that the Apple iPhone 3G and the accused RIM BlackBerry devices infringe Kodak’s patent, although his recommendation is that the patent claim is invalid.

The patent at issue (US Patent No. 6,292,218) relates to a technology invented by Kodak for previewing images on a digital camera-enabled device that is fundamental to how those devices take pictures. In the face of two separate challenges, the U.S. Patent and Trademark Office analyzed this particular Kodak patent and confirmed its validity in December 2010. The final decision of the ITC, based on the deliberation of the full Commission, is expected by September 21, 2012.


“We are pleased the ALJ has concluded that Kodak’s patent is infringed by Apple and RIM. We expect to appeal to the full Commission his recommendation on validity. The ALJ’s recommendation represents a preliminary step in a process that we are confident will conclude in Kodak’s favor,” said Timothy Lynch, Kodak Vice President and Chief Intellectual Property Officer. “In a previous ITC investigation, a different ALJ found this same Kodak patent to be valid and infringed by Samsung, whose products are similar to those offered by Apple and RIM. Kodak has invested billions of dollars to develop its pioneering digital imaging technology, and we intend to protect these valuable assets.”

The '218 patent at issue in this case is one of 1,100 digital imaging patents in Kodak’s industry-leading patent portfolio. Kodak licenses its technology to numerous leading technology companies, including LG, Motorola, Nokia, and Samsung.

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