

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN NETWORK DEVICES,
RELATED SOFTWARE AND
COMPONENTS THEREOF (I)**

Inv. No. 337-TA-944

NOTICE OF INSTITUTION OF INVESTIGATION

Institution of investigation pursuant to 19 U.S.C. § 1337

AGENCY: U.S. International Trade Commission

ACTION: Notice

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on December 19, 2014, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, on behalf of Cisco Systems, Inc. of San Jose, California. A supplement was filed on January 8, 2015. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain network devices, related software and components thereof by reason of infringement of certain claims of U.S. Patent No. 7,162,537 (“the ‘537 patent”); U.S. Patent No. 8,356,296 (“the ‘296 patent”); U.S. Patent No. 7,290,164 (“the ‘164 patent”); U.S. Patent No. 7,340,597 (“the ‘597 patent”); U.S. Patent No. 6,741,592 (“the ‘592 patent”); and U.S. Patent No. 7,200,145 (“the ‘145 patent”), and alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and a cease and desist order.

ADDRESSES: The complaint, except for any confidential information contained therein, is 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, S.W., Room 112, Washington, D.C. 20436, telephone (202) 205-2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (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>.

FOR FURTHER INFORMATION CONTACT: The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205-2560.

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.10 (2014).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on January 20, 2015, **ORDERED THAT** –

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain network devices, related software and components thereof by reason of infringement of one or more of claims 1, 2, 8-11, and 17-19 of the '537 patent; claims 1, 6, and 12 of the '296 patent; claims 1, 5, 6, 9, and 18 of the '164 patent; claims 1, 14, 15, 29, 39-42, 63, 64, 71-73, and 84-86 of the '597 patent; claims 6-10, 17, 18, 20, 21, 23, and 24 of the '592 patent; claims 1, 3, 5, 7-11, 13, 15-29, 33-37, and 39-46 of the '145 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

Cisco Systems, Inc.
170 W Tasman Drive
San Jose, CA 95134

(b) The respondent is the following entity alleged to be in violation of section 337, and is the party upon which the complaint is to be served:

Arista Networks, Inc.
5453 Great America Parkway
Santa Clara, CA 95054

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Suite 401, Washington, D.C. 20436; and

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge, and the Chief Administrative Law Judge is authorized to consider whether to consolidate Inv. No. 337-TA-944 with Inv. No. 337-TA-945, and to consolidate them if he deems it appropriate.

Responses to the complaint and the notice of investigation must be submitted by the named respondent in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.13. Pursuant to 19 C.F.R. §§ 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of the respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

A handwritten signature in black ink, appearing to read "Lisa R. Barton", with a stylized flourish at the end.

Lisa R. Barton
Secretary to the Commission

Issued: January 21, 2015

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

CERTAIN NETWORK DEVICES, RELATED
SOFTWARE AND COMPONENTS THEREOF
(I)


Inv. No. 337-TA-944

DESIGNATION OF OUII ATTORNEY
FOR SERVICE OF PROCESS

The Office of Unfair Import Investigations ("OUII") hereby designates Andrew Beverina, Esq., (202) 205-2077, Andrew.Beverina@usitc.gov, as OUII's lead attorney for service of process.

It is requested that all documents served by the Commission or filed by the parties in the above-referenced investigation be served upon this attorney.

Respectfully submitted,


Margaret Macdonald Director

OFFICE OF UNFAIR IMPORT INVESTIGATIONS
U.S. International Trade Commission
500 E Street, S.W., Suite 401
Washington, D.C. 20436
(202) 205-2560
(202) 205-2158 (facsimile)

January 21, 2015

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **NOTICE OF INSTITUTION OF INVESTIGATION** has been served by hand upon the Commission Investigative Attorney, **Andrew Beverina, Esq.**, and the following parties as indicated, on January 21, 2015.



Lisa R. Barton, Secretary
U.S. International Trade Commission
500 E Street, SW, Room 112
Washington, DC 20436

Complainants:

Cisco Systems, Inc.
170 W. Tasman Drive
San Jose, CA 95134

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: _____

On Behalf of Complainants:

D. Sean Trainor
KIRKLAND & ELLIS LLP
655 15th Street N. W.
Washington, DC 20005

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: _____

Respondents:

Arista Networks, Inc.
5453 Great America Parkway
Santa Clara, CA 95054

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: _____

Government Agencies:

Edward T. Hand, Chief
Foreign Commerce Section
Antitrust Division
U.S. Department of Justice
450 5th Street NW, Room 11000
Washington, DC 20530

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: _____

U.S. Bureau of Customs and Border Protection
Intellectual Property Rights Branch

- Via Hand Delivery
- Via Express Delivery

CERTAIN WIRELESS HEADSETS

Inv. No. 337-TA-944

Certificate of Service – Page 2

Mint Annex Building
799 9th Street, NW, 7th floor
Washington, DC 20229-1177

- Via First Class Mail
 Other: _____

Elizabeth Kraus, Deputy Director
International Antitrust, Office of
International Affairs
Federal Trade Commission
600 Pennsylvania Avenue, Room 498
Washington, DC 20580

- Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: _____

Dale D. Berkley, Ph.D., J.D.
Office of the General Counsel, PHD, NIH Branch
National Institutes of Health
31 Center Drive
Bldg. 31, Rm. 47
Bethesda, MD 20892

- Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: _____



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

January 21, 2015

Cisco Systems, Inc.
170 W. Tasman Drive
San Jose, CA 95134

**Re: Certain Network Devices, Related Software and Components Thereof (I)
Inv. No. 337-TA-944**

Dear Sir/Madam:

This letter is to advise you that the U.S. International Trade Commission has instituted an investigation pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). A copy of the Commission's notice of investigation is enclosed. Also enclosed is the Section 337 Mediation Program brochure. After reviewing the brochure, please sign and return the enclosed certification of receipt.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa R. Barton", written in a cursive style.

Lisa R. Barton
Secretary

Enclosures:

1. Notice of Investigation
2. Publication No. 4497 Regarding the Section 337 Mediation Program
3. Certification of Receipt of Mediation Materials



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

January 21, 2015

D. Sean Trainor, Esq.
Kirkland & Ellis LLP
655 15th Street, NW
Washington, DC 20005

**Re: Certain Network Devices, Related Software and Components Thereof (I)
Inv. No. 337-TA-944**

Dear Mr. Trainor:

This letter is to advise you that the U.S. International Trade Commission has instituted an investigation pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). A copy of the Commission's notice of investigation is enclosed. Also enclosed is the Section 337 Mediation Program brochure. After reviewing the brochure, please sign and return the enclosed certification of receipt.

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Lisa R. Barton
Secretary

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3. Certification of Receipt of Mediation Materials



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

January 21, 2015

Arista Networks, Inc.
5453 Great American Parkway
Santa Clara, CA 95054

**Re: Certain Network Devices, Related Software and Components Thereof (I)
Inv. No. 337-TA-944**

Dear Sir/Madam:

This letter is to advise you that the United States International Trade Commission has instituted an investigation pursuant to Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). **Arista Networks, Inc.** is a named respondent in this investigation.

We are hereby serving you with a copy of the Complaint and the Notice of Investigation issued in this matter. Enclosed is a copy of the Code of Federal Regulations. Also enclosed is a the Section 337 Mediation Program brochure. After reviewing this brochure, please sign and return the enclosed certification of receipt.

Please note that the Notice requires a response to the allegations in the Complaint and the response must be received not later than twenty (20) days after the date of service of the Complaint. Failure to file a response may result in inferences being drawn against your interests.

Sincerely,

Lisa R. Barton
Secretary

Enclosures:

1. Complaint
2. Notice of Investigation
3. Code of Federal Regulation
4. Publication No. 4497 Regarding the Section 337 Mediation Program
5. Certification of Receipt of Mediation Materials



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

January 21, 2015

Edward T. Hand, Chief
Foreign Commerce Section
Antitrust Division
U.S. Dept of Justice
450 5th Street NW, Room 11000
Washington, DC 20530

**Re: Certain Network Devices, Related Software and Components Thereof
Inv. No. 337-TA-944**

Dear Mr. Hand:

This letter is to advise you that the United States International Trade Commission has instituted an investigation pursuant to Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). A copy of the Notice of Investigation is enclosed. Non-confidential copies of the Complaint and any supplements filed in the investigation will be provided upon request. Requests should be directed to Sally Bromley, Case Manager to the Hon. David P. Shaw at (202) 708-4170.

If you have any questions concerning this investigation, please contact the Commission Investigative Attorney whose name and telephone number appear in the enclosed Notice.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa R. Barton", enclosed in a rectangular box.

Lisa R. Barton
Secretary

Enclosure:

1. Notice of Investigation



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

January 21, 2015

Intellectual Property Rights Branch
Regulations and Rulings
Office of International Trade
U.S. Customs and Border Protection
90 K Street, NE, 10th Floor
Washington, DC 20229-1177

**Re: Certain Network Devices, Related Software and Components Thereof
Inv. No. 337-TA-944**

Dear Sir/Madam:

This letter is to advise you that the United States International Trade Commission has instituted an investigation pursuant to Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). A copy of the Notice of Investigation is enclosed. Non-confidential copies of the Complaint and any supplements filed in the investigation will be provided upon request. Requests should be directed to Sally Bromley, Case Manager to the Hon. David P. Shaw at (202) 708-4170.

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Lisa R. Barton
Secretary

Enclosure:

1. Notice of Investigation



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

January 21, 2015

Elizabeth Kraus, Deputy Director
International Antitrust, Office of International Affairs
Federal Trade Commission
600 Pennsylvania Avenue, Room 498
Washington, DC 20580

**Re: Certain Network Devices, Related Software and Components Thereof
Inv. No. 337-TA-944**

Dear Ms. Kraus:

This letter is to advise you that the United States International Trade Commission has instituted an investigation pursuant to Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). A copy of the Notice of Investigation is enclosed. Non-confidential copies of the Complaint and any supplements filed in the investigation will be provided upon request. Requests should be directed to Sally Bromley, Case Manager to the Hon. David P. Shaw at (202) 708-4170.

If you have any questions concerning this investigation, please contact the Commission Investigative Attorney whose name and telephone number appear in the enclosed Notice.

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Lisa R. Barton
Secretary

Enclosure:

1. Notice of Investigation



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

January 21, 2015

Dale D. Berkley, Ph.D., J.D.
Office of General Counsel, PHD, NIH Branch
National Institutes of Health
31 Center Drive
Bldg. 31, Rm. 47
Bethesda, MD 20892

**Re: Certain Network Devices, Related Software and Components Thereof
Inv. No. 337-TA-944**

Dear Dr. Berkley:

This letter is to advise you that the United States International Trade Commission has instituted an investigation pursuant to Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). A copy of the Notice of Investigation is enclosed. Non-confidential copies of the Complaint and any supplements filed in the investigation will be provided upon request. Requests should be directed to Sally Bromley, Case Manager to the Hon. David P. Shaw at (202) 708-4170.

If you have any questions concerning this investigation, please contact the Commission Investigative Attorney whose name and telephone number appear in the enclosed Notice.

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Lisa R. Barton
Secretary

Enclosure:

1. Notice of Investigation