

PUBLIC VERSION

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

In the Matter of

Investigation No. 337-TA-710

**CERTAIN PORTABLE DATA AND
MOBILE COMMUNICATIONS
DEVICES AND RELATED SOFTWARE**

**JOINT MOTION TO RESCIND THE LIMITED EXCLUSION ORDER BASED ON
A PATENT LICENSE AND SETTLEMENT AGREEMENT**

Complainants Apple Inc., and its subsidiary NeXT Software, Inc. (collectively “Apple”) and Respondents High Tech Computer Corp., HTC America, Inc., and Exedea, Inc. (collectively, “HTC”) have entered into a Patent License And Settlement Agreement (“Agreement”) that resolves all past and current matters at issue in the Investigation, is fully effective, and has been executed by authorized representatives of Apple and HTC.

On the basis of the Agreement, Apple and HTC have today jointly moved for termination of the Enforcement Proceeding. Apple and HTC now move, pursuant to 19 U.S.C. § 1337(k) Rule 210.76(a) for rescission of the Limited Exclusion Order currently in place in this matter based on changed conditions of fact created by the Agreement. Apple and HTC further request expedited treatment of this motion in view of disruptions of now licensed international trade by Customs and that the Commission accord confidential treatment to the designated portions of the Agreement pursuant to Rules 201.6, 210.5, and 210.72.

As set forth in the accompanying memorandum in support, Apple and HTC have entered into an Agreement that is designed to terminate this Investigation in its entirety without prejudice and to rescind the current Limited Exclusion Order. The Agreement contains Confidential Business Information within the meaning of Rules 201.6, 210.5, and 210.72. Accordingly,

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pursuant to Rule 210.21(b)(1), a public version of the Agreement is attached as Exhibit A to the public version of this motion. There are no other agreements, written or oral, express or implied between Apple and HTC concerning the subject matter of this Investigation.

Because the public interest and Commission precedent support the termination of a pending investigation and rescission of exclusion orders based on settlements and license agreements, Apple and HTC respectfully request that the Commission rescind the Limited Exclusion Order currently in place in this matter in its entirety based on changed conditions of fact created by the Agreement and accord confidential treatment to the designated portions of the Agreement.

Dated: November 20, 2012

<p>Respectfully submitted,</p> <p><u>S/ Gregory S. Arovas, P.C.</u> Gregory S. Arovas, P.C. Todd M. Friedman KIRKLAND & ELLIS LLP 601 Lexington Avenue New York, New York 10022 Telephone: (212) 446-4800 Facsimile: (212) 446-4900</p> <p>Edward C. Donovan F. Christopher Mizzo D. Sean Trainor KIRKLAND & ELLIS LLP 655 Fifteenth Street, N.W. Washington, D.C. 20005 Telephone: (202) 879-5000 Facsimile: (202) 879-5100</p> <p>Marcus E. Sernel, P.C.</p>	<p>Respectfully submitted,</p> <p><u>S/ Paul F. Brinkman</u> Paul F. Brinkman S. Alex Lasher Patrick A. Fitch Jared W. Newton QUINN EMANUEL URQUHART & SULLIVAN, LLP 1299 Pennsylvania Ave. NW, Suite 825 Washington, DC 20004 Tel.: (202) 538-8000 Fax: (202) 538-8100</p> <p>Amy H. Candido Sean S. Pak Jordan R. Jaffe QUINN EMANUEL URQUHART & SULLIVAN, LLP 50 California Street, 22nd Floor San Francisco, CA 94111 Tel.: (415) 875-6600</p>
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