

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

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**In the Matter of**

**CERTAIN BASEBAND PROCESSOR  
CHIPS AND CHIPSETS, TRANSMITTER  
AND RECEIVER (RADIO) CHIPS,  
POWER CONTROL CHIPS, AND  
PRODUCTS CONTAINING SAME,  
INCLUDING CELLULAR TELEPHONE  
HANDSETS**

**Investigation No. 337-TA-543**

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**ORDER TO CEASE AND DESIST**

IT IS HEREBY ORDERED THAT Qualcomm Incorporated, 5775 Morehouse Drive, San Diego, California, 92121 ("Qualcomm"), cease and desist from conducting any of the following activities in the United States: importing, selling, distributing, marketing, consigning, transferring (except for exportation), offering for sale in the United States, or soliciting U.S. agents or distributors for, certain baseband processor chips and chipsets in violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337. Additionally, it is ordered that Qualcomm cease and desist from transforming certain imported chips and chipsets in the United States into infringing products by programming (or enabling or encouraging others to program) them with software that enables the patented features.

**I.**

**Definitions**

As used in this Order:

(A) "Commission" shall mean the United States International Trade Commission.

(B) "Complainant" and "Broadcom" shall mean Broadcom Corporation, 16215 Alton Parkway, Irvine, California.

(C) "Respondent" and "Qualcomm" shall mean Qualcomm Incorporated, 5775 Morehouse Drive, San Diego, California.

(D) "Person" shall mean an individual, or any nongovernmental partnership, firm, association, corporation, or other legal or business entity other than the Respondent or its majority owned or controlled subsidiaries, their successors, or assigns.

(E) "United States" shall mean the fifty States, the District of Columbia, and Puerto Rico.

(F) The terms "import" and "importation" refer to importation for entry for consumption, entry for consumption from a foreign-trade zone, and withdrawal from a warehouse for consumption under the Customs laws of the United States.

(G) The term "covered product" shall include, without limitation, baseband processor chips programmed to enable the power saving features covered by claims 1, 4, 8, 9, and 11 of U.S. Patent No. 6,714,983.

**II.**

**Applicability**

The provisions of this Cease and Desist Order shall apply to Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, contractors, distributors, controlled (whether by stock ownership or otherwise) and majority owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by Section III, *infra*, for, with, or otherwise on behalf of Respondent.

**III.**

**Conduct Prohibited**

The following conduct of Respondent in the United States is prohibited by the Order. For the remaining term of U.S. Patent No. 6,714,983, Respondent shall not:

- (A) import or sell for importation into the United States covered product;
- (B) transform an imported baseband processor chip into covered product by programming it in the United States with software that enables the patented battery saving features;
- (C) market, distribute, offer for sale, sell, consign, or otherwise transfer (except for exportation) in the United States imported covered product;
- (D) solicit U.S. agents or distributors for covered product;
- (E) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered product in the United States; or
- (F) aid or abet other entities in the transformation of an imported baseband processor chip into covered product by facilitating or encouraging the programming of such chip in the United

States with software that enables the patented battery saving features.

#### **IV.**

##### **Conduct Permitted**

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of U.S. Patent No. 6,714,983 licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered product by or for the United States.

#### **V.**

##### **Reporting**

For purposes of this reporting requirement, the yearly reporting periods shall commence on July 1 of each year and shall end on the subsequent June 30. However, the first yearly report required under this section shall cover the period from the date of issuance of this Order through June 30, 2007.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission the quantity in units and the value in dollars of baseband processor chips that Respondent has imported or sold in the United States after importation during the reporting period, the quantity in units and the value in dollars of covered product that Respondent has created by programming baseband processor chips with software that enables the patented battery saving features, and the quantity in units and value in dollars of reported baseband processor chips and covered product that remain in inventory in the United States at the end of the reporting period.

Any failure to make the required report or the filing of any false or inaccurate report shall constitute a violation of this Order, and the submission of a false or inaccurate report may be referred to the U.S. Department of Justice as a possible criminal violation of 18 U.S.C. § 1001.

## **VI.**

### **Record-keeping and Inspection**

(A) For the purpose of securing compliance with this Order, Respondent shall retain any and all records relating to the exportation to, importation into, and programming in the United States of baseband processor chips and the exportation to and importation into the United States and the sale, offer for sale, marketing, or distribution in the United States of covered product, made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of two (2) years from the close of the fiscal year to which they pertain.

(B) For the purposes of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, shall be permitted access and the right to inspect and copy in Respondent's principal offices during office hours, and in the presence of counsel or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other records and documents, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

**VII.**

**Service of Cease and Desist Order**

Respondent is ordered and directed to:

(A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of its respective officers, directors, managing agents, agents, and employees who have any responsibility for (i) the importation, marketing, distribution, or sale of imported covered product in the United States and (ii) the programming of imported baseband processor chips;

(B) Serve, within fifteen (15) days after the succession of any persons referred to in subparagraph VII (A) of this Order, a copy of the Order upon each successor; and

(C) Maintain such records as will show the name, title, and address of each person upon whom the Order has been served, as described in subparagraphs VII(A) and VII(B) of this Order, together with the date on which service was made.

The obligations set forth in subparagraphs VII(B) and VII(C) shall remain in effect until the date of expiration of U.S. Patent No. 6,714,983.

**VIII.**

**Confidentiality**

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of the Order should be in accordance with section 201.6 of the Commission Rules of Practice and Procedure. 19 C.F.R. § 201.6. For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

**IX.****Enforcement**

Violation of this Order may result in any of the actions specified in section 210.75 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.75, including an action for civil penalties in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent fails to provide adequate or timely information.

**X.****Modification**

The Commission may amend this Order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.76.

**XI.****Bonding**

The conduct prohibited by Section III of this Order may be continued during the sixty (60) day period in which this Order is under review by the President pursuant to section 337(j) of the Tariff Act of 1930, 19 U.S.C. § 1337(j), subject to Respondent posting a bond of 100% of the imported value per unit for covered products. This bond provision does not apply to conduct that is otherwise permitted by Section IV of this Order. Covered product imported on or after the date of issuance of this order is subject to the entry bond as set forth in the limited exclusion order issued by the Commission, and is not subject to this bond provision.

The bond is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* 19 C.F.R. § 210.68. The bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order.

The bond is to be forfeited in the event that the President approves, or does not disapprove within the Presidential review period, this Order, unless the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

The bond is to be released in the event the President disapproves this Order and no subsequent order is issued by the Commission and approved, or not disapproved, by the President, upon service on Respondent of an order issued by the Commission based upon application therefore made by Respondent to the Commission.

By Order of the Commission.

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Marilyn R. Abbott  
Secretary to the Commission

Issued: June 7, 2007