

combination of prior art QPSK and $\pi/2$ -shift BPSK modulation schemes. The Commission reverses the ID's finding that generation of the complex-valued long scrambling sequence, $C_{long,n}$ used to scramble PRACH messages in the scheme defined by the 3GPP-UMTS standard necessarily practices the method claims 1–4 of the '697 patent, and thus, finds no direct or induced infringement with respect to the '697 patent. The Commission further reverses the ID's finding that Motorola has satisfied the technical prong of the domestic industry requirement for the '697 patent, and finds that Motorola has not satisfied this requirement.

With respect to the '862 patent, the Commission has determined to reverse the ID's finding that claim 1 is indefinite. The Commission remands the investigation to the ALJ to consider the issues of infringement, validity, and the domestic industry requirement for the '862 patent.

With respect to the '333 patent, the Commission has determined to affirm the ID's finding of no violation of section 337 with modifications. In particular, the Commission finds that the limitation "a list of all software applications that are currently accessible to the subscriber unit" of claim 12 means "a list of all software applications that are available and enabled for present use by the subscriber." The Commission affirms the ID's finding that claim 12 of the '333 patent is not anticipated by Grube '831, DeLuca '737 or DeLuca '682, and is not rendered obvious by Grube '831 in view of DeLuca '682. The Commission also affirms, with modified reasoning, the ALJ's finding of non-infringement of claim 12 of the '333 patent. The Commission further affirms, with modified reasoning, the ID's finding that Motorola's domestic industry product does not practice claim 12 of the '333 patent.

With respect to whether Motorola has satisfied the economic prong of the domestic industry requirement, the Commission has determined to affirm-in-part the ID's finding that Motorola has satisfied the economic prong of the domestic industry requirement under section 337(a)(3)(A) and (B) by making substantial investments in its CliqXT and Droid 2 products, and further finds that these investments satisfy the economic prong requirement as to the '223, '697, and '333 patents. In addition to its investments in seedstock for its CliqXT and Droid 2 products, the Commission also finds that Motorola's expenditures relating to the creation of prototypes for its CliqXT and Droid 2 products and its costs associated with

post-assembly loading of vendor-specific software and testing of those products are sufficient to support a finding that Motorola has satisfied the economic prong under section 337(a)(3)(A) and (B). The Commission vacates and takes no further position on the ID's finding that Motorola has not satisfied the economic prong as to the '333 patent under section 337(a)(3)(C) for its investments in licensing.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in sections 210.42–.50 of the Commission's Rules of Practice and Procedure (19 CFR 210.42–.50).

By order of the Commission.

Issued: August 24, 2012.

Lisa R. Barton,

Acting Secretary to the Commission.

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DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decrees Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

Notice is hereby given that on August 23, 2012, two proposed Consent Decrees ("Decrees") in *United States and the State of South Dakota v. Cyprus Mines Corporation, Cyprus Amax Minerals Company, Inc., Blue Tee Corp., and Homestake Mining Company of California*, Case No. 5:12–CV–05058–JLV, were lodged with the United States District Court for the District of South Dakota, Western Division. The case was brought under Sections 107(a) and 113(g)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9607(a) and 9613(g)(2), for the recovery of response costs related to the cleanup at the Gilt Edge Mine Superfund Site ("Site") in Lawrence County, South Dakota.

The Consent Decrees require the Defendants to pay a combined \$30.2 million to settle their liability at the Site. Cyprus Mines Corporation, Cyprus Amax Minerals Company, Inc., and Blue Tee Corp. will pay a total of \$26 million. Homestake Mining Company of California will pay \$4.2 million. The money will be used to help pay for response costs related to the cleanup at the Site.

The United States and the State of South Dakota filed a Complaint simultaneous with the Consent Decrees

alleging that the Defendants are jointly and severally liable for response costs related to the cleanup at the Site. 42 U.S.C. 9607(a), 9613(g)(2). The Consent Decrees would resolve the claims against the Defendants as described in the Complaint.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Decrees. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either emailed to the *pubcommentees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States and the State of South Dakota v. Cyprus Mines Corporation, Cyprus Amax Minerals Company, Inc., Blue Tee Corp., and Homestake Mining Company of California*, Case No. 5:12–CV–05058–JLV, D.J. Ref. No. 90–11–3–08278.

The Decrees may be examined at the Office of the United States Attorney, District of South Dakota, 515 Ninth Street, Suite 201, Rapid City, South Dakota 57701. They also may be examined at the offices of U.S. EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202. During the public comment period, the Decrees may be examined on the following Department of Justice Web site, http://www.usdoj.gov/enrd/Consent_Decrees.html.

A copy of the Decrees may be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or emailing a request to "Consent Decree Copy" (*EESCDCopy.ENRD@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–5271. If requesting a copy from the Consent Decree Library by mail, please enclose a check in the amount of \$14.25 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if requesting by email or fax, forward a check in that amount to the Consent Decree Library at the address given above.

Robert Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

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