

# EXHIBIT D

UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, D.C.

**In the Matter of**

**CERTAIN HANDHELD ELECTRONIC  
COMPUTING DEVICES, RELATED  
SOFTWARE, AND COMPONENTS  
THEREOF**

**Inv. No. 337-TA-769**

**ORDER NO. 2: NOTICE OF GROUND RULES AND ORDER SETTING DATE  
FOR SUBMISSION OF DISCOVERY STATEMENTS AND DATE  
FOR PRELIMINARY CONFERENCE**

(April 25, 2011)

By publication of a notice in the *Federal Register* on April 25, 2011, pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, the Commission instituted this investigation to determine:

[W]hether 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 handheld electronic computing devices, related software, and components thereof that infringe one or more of claims 1 and 5 of the '372 patent; claims 1, 2 and 12 of the '522 patent; claim 1-6, 9-14, 17-26, and 29-42 of the '780 patent; claim 1-3, 5, and 7-11 of the '551 patent; claims 21 and 22 of the '233 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337.

76 Fed. Reg. 22918 (April 25, 2011).

The complainant is Microsoft Corporation of Redmond, Washington. The respondents are Barnes & Noble, Inc. of New York, New York; barnesandnoble.com. LLC of New York, New York; Hon Hai Precision Industry Co., Ltd of Taipei County, Taiwan; Foxconn Electronics, Inc. of Taipei County, Taiwan; Foxconn Precision Component (Shenzhen) Co., Ltd of

Guandong, China; Foxconn International Holdings Ltd. of New Territories, Hong Kong; and Inventec Corporation of Taipei County, Taiwan. The Commission Investigative Staff of the Office of Unfair Import Investigations is also a party in this investigation. (*Id.*)

### **DISCOVERY STATEMENT**

In order that the proceeding in this matter may begin expeditiously, the parties are directed to submit a discovery statement, in regards to the full investigation, on or before May 16, 2011, which includes the following (the discovery statement need not be filed with Office of the Secretary of the Commission):

1. A description of information and evidence that each party intends to submit to prove its own case.
2. A description of specific information and evidence that each party will be seeking from other parties and third persons.
3. A description of information and evidence each party believes can be obtained only by deposition, interrogatory, subpoena, or request for admissions.
4. Status of any settlement discussions;
5. Status of any litigation that may affect any issue in this investigation;
6. Status of any proceedings (including reexams) before the Patent and Trademark Office;
7. Proposal for modification of, or addition to, the ground rules attached to this order and which are in effect, pursuant to this order, for this investigation;
8. Proposal for any modifications of the protective order (Order No. 1) now in effect for this investigation; and
9. Position as to target date.

## **TARGET DATE AND PROPOSED PROCEDURAL SCHEDULE(S)**

An order will issue setting the target date which will be set, pursuant to Commission rule 210.51(a), after considering the positions of the parties as to a target date in their discovery statements and during the preliminary conference. After issuance of said order and consistent with the target date, there should be received by the administrative law judge proposed procedural schedule(s). The date for receipt will be set in the target date order. The contents of any procedural schedule are set forth in Ground Rule 2. The parties should make intensive good faith efforts to agree to a procedural schedule. It is expected that in most instances the parties should be able to submit a joint proposal on this matter. Any proposed procedural schedule should not be filed with the Secretary.

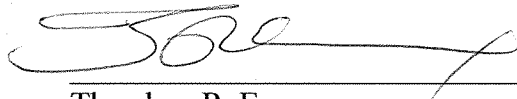
## **PRELIMINARY CONFERENCE**

The ALJ finds that a preliminary conference would be beneficial for the ALJ and all of the parties involved. The parties should be prepared to discuss any issues with respect to the discovery statements, including the ground rules, protective order and position as to target date; how discovery is progressing, including any issues that may have arisen or issues that the parties anticipate may arise; and any other matters that may have surfaced. The preliminary conference will be held on Thursday, June 2, 2011 at 10:30am, via teleconference. Complainant Microsoft Corporation shall be responsible for arranging the logistics of the teleconference, including arranging for a court reporter.

**GROUND RULES**

The attached ground rules supplement the Commission Rules. The conduct of this investigation before the Administrative Law Judge shall be governed by the Commission Rules and the Ground Rules attached hereto.

**SO ORDERED.**



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Theodore R. Essex  
Administrative Law Judge