



INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-910]

Certain Television Sets, Television Receivers, Television Tuners, and Components Thereof Commission Determination Terminating the Investigation with a Finding of No Violation of Section 337

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to terminate the above-captioned investigation with a finding of no violation of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337.

FOR FURTHER INFORMATION CONTACT: Sidney A. Rosenzweig, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-708-2532. Copies of non-confidential documents filed in connection with this investigation are or will be 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., Washington, D.C. 20436, telephone 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<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>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on March 5, 2014, based on a complaint filed by Cresta Technology Corporation, of Santa Clara, California (“Cresta”). 79 FR 12526 (Mar. 5, 2014). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended 19 U.S.C. 1337, by reason of the infringement of certain claims from three United States patents. The notice of investigation named ten respondents: Silicon Laboratories, Inc. of Austin, Texas (“Silicon Labs”); MaxLinear, Inc. of Carlsbad, California (“MaxLinear”); Samsung Electronics Co, Ltd. of Suwon, Republic of Korea and Samsung Electronics America, Inc. of Ridgefield Park, New Jersey (collectively, “Samsung”); VIZIO, Inc. of Irvine, California (“Vizio”); LG Electronics, Inc. of Seoul, Republic of Korea and LG Electronics U.S.A., Inc. of Englewood Cliffs, New Jersey (collectively, “LG”); and Sharp Corporation of Osaka, Japan and Sharp Electronics Corporation of Mahwah, New Jersey (collectively, “Sharp”). The Office of Unfair Import Investigations was also named as a party.

On May 16, 2014, the ALJ issued an initial determination granting Cresta’s motion to amend the complaint and notice of investigation to add six additional respondents: SIO International Inc. of Brea, California and Hon Hai Precision Industry Co., Ltd. of New Taipei City, Taiwan (collectively, “SIO/Hon Hai”); Top Victory Investments, Ltd. of Hong Kong and TPV International (USA), Inc. of Austin, Texas (collectively, “TPV”); and Wistron Corporation of New Taipei City, Taiwan and Wistron Infocomm Technology (America) Corporation of Flower Mound, Texas (collectively, “Wistron”). Order No. 12 (May 16, 2014), *not reviewed*, Notice (June 9, 2014).

On November 3, 2014, the ALJ granted-in-part Samsung and Vizio’s motion for

summary determination of noninfringement as to certain televisions containing tuners made by a third party, NXP Semiconductors N.V. Order No. 46 at 27-30 (Nov. 3, 2014), *not reviewed*, Notice (Dec. 3, 2014). On November 21, 2014, the ALJ issued granted Samsung's and Vizio's motion for summary determination that Cresta had not shown that certain Samsung televisions with NXP tuners had been imported. Order No. 58 at 4-5 (Nov. 21, 2014), *not reviewed*, Notice (Dec. 8, 2014).

On November 12, 2014, the ALJ granted Cresta's motion to partially terminate the investigation as to one asserted patent and certain asserted claims of the two other asserted patents. Order No. 50 (Nov. 12, 2014), *not reviewed*, Notice (Dec. 3, 2014). The two asserted patents still at issue in the investigation are U.S. Patent No. 7,075,585 ("the '585 patent") and U.S. Patent No. 7,265,792 ("the '792 patent"). Claims 1-3, 10, and 12-13 of the '585 patent, and claims 1-4, 7-8, and 25-27 of the '792 patent, remain at issue in the investigation.

The presiding ALJ conducted a hearing from December 1-5, 2014. On February 27, 2015, the ALJ issued the final ID. The final ID finds that Cresta failed to satisfy the economic prong of the domestic industry requirement, 19 U.S.C. 1337(a)(2), (a)(3), for both asserted patents. To satisfy the economic prong of the domestic industry requirement, Cresta relied upon claims 1-3, 5-6, 10, 13-14, 16-19, and 21 of the '585 patent; and claims 1-4, 7, 10-12, 18-19, and 26-27 of the '792 patent. The ID finds that certain Cresta products—on their own, or combined with certain televisions into which Cresta's tuners are incorporated—practice claims 1-3, 5-6, 10, 13, 16-19, and 21 of the '585 patent, as well as claims 1-4, 7, 10-12, 18-19, and 26 of the '792 patent.

The ID finds some Silicon Labs tuners (as well as certain televisions containing them) to

infringe claims 1-3 of the '585 patent, and no other asserted patent claims. The ID further finds some MaxLinear tuners (as well as certain televisions containing them) to infringe claims 1-3, 10, 12, and 13 of the '585 patent and claims 1-3, 7-8, and 25-26 of the '792 patent.

The ID finds claims 1 and 2 of the '585 patent to be invalid pursuant to 35 U.S.C. 102 (anticipation), and claim 3 of the '585 patent to be invalid pursuant to 35 U.S.C. 103 (obviousness). The ID finds all of the asserted claims of the '792 patent to be invalid pursuant to 35 U.S.C. 102 or 103.

The ALJ recommended that if a violation of section 337 is found, that a limited exclusion order and cease and desist orders issue. The ALJ recommended, however, that the implementation of such orders be delayed by twelve months in view of public interest considerations. The ALJ also recommended that there be zero bond during the period of Presidential review.

On March 16, 2015, petitions for Commission review were filed by the following parties: the Commission investigative attorney ("IA"); Cresta; the Silicon Labs respondents; and the MaxLinear respondents. On March 24, 2015, OUII and Cresta each filed a reply to the other parties' petitions. That same day, the respondents filed a reply to Cresta's petition.

On April 30, 2015, the Commission determined to review the ID in part. The scope of Commission review is set forth in the Commission notice that issued on that date. 80 FR 26091 (May 6, 2015). The Commission solicited briefing on the issues under review, and on remedy, bonding and the public interest.

On May 14, 2015, the IA, Cresta, and the respondents filed briefs in response to the Commission notice of review, and on May 26, 2015, they filed replies to each other's briefs.

Having examined the record of this investigation, including the ALJ's final ID, the petitions for review, and the responses thereto, and the briefing in response to the notice of review, the Commission has determined to terminate the investigation with a finding of no violation of section 337.

The Commission has determined to affirm the ID's findings of invalidity of claims 1-4, 7-8, and 26-27 of the '792 patent because of an on-sale bar. Further, the Commission finds claim 3 of the '585 patent obvious in view of Boie combined with Kerth. The Commission finds claim 10 of the '585 patent and claims 1-4 of the '792 patent obvious in view of Boie as well as in view of Boie combined with VDP. The Commission finds that the respondents did not demonstrate obviousness clearly and convincingly as to claims 12-13 of the '585 patent and claims 25-26 of the '792 patent.

As to infringement, the Commission affirms the ID's finding that the accused MaxLinear tuners infringe claims 1, 2, 3, 10, 12, and 13 of the '585 patent and claims 1-3, 7-8, and 25-26 of the '792 patent. The Commission has determined to affirm in part and reverse in part the ID's findings concerning Silicon Labs' infringement of the claims of the '585 patent. In particular, the Commission finds that certain accused Silicon Labs tuners infringe claims 1-3, and 7-8 of the '585 patent and that Cresta failed to demonstrate infringement by Silicon Labs of claims 10, 12, and 13 of the '585 patent. The Commission also finds that Cresta failed to demonstrate that Silicon Labs infringes any of the asserted claims of the '792 patent.

The Commission finds that, for the specific models of televisions for which Cresta demonstrated direct infringement that Cresta adequately demonstrated contributory infringement by MaxLinear or Silicon Labs.

The Commission finds that Cresta satisfies the technical prong of the domestic industry requirement for the '792 patent, but not for the '585 patent. The Commission further finds that Cresta failed to satisfy the economic prong of the domestic industry requirement for the '585 patent and the '792 patent.

The reasons for the Commission's determinations will be set forth more fully in the Commission's forthcoming opinion. Commissioner Schmidlein will write separately with her views as to the basis for the Commission's determination that Cresta failed to meet the economic prong of the domestic industry requirement.

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 Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Dated: September 29, 2015.

William R. Bishop,
Supervisory Hearings and Information Officer.

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