



7020-02

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1043]

Commission Decision to Affirm in Part, Modify in Part, Reverse in Part, and Take No Position With Respect to Certain Portions of a Final Initial Determination; Termination of the Investigation: Certain Electrical Connectors, Components Thereof, and Products Containing the Same

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to affirm in part, modify in part, reverse in part, and take no position with respect to certain portions of a final initial determination (“ID”) of the presiding administrative law judge (“ALJ”) finding a violation of section 337. On review, the Commission finds that there is no violation of section 337. The Commission has terminated the investigation.

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, D.C. 20436, telephone (202) 708-2310. 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, SW., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://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 14, 2017, based on a complaint filed by J.S.T. Corporation (“JST”) of Farmington Hills, Michigan. 82 FR 13654-55 (March 14, 2017). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based on the importation and sale of certain electrical connectors, components thereof, and products containing the same by reason of infringement of claims 2, 4, and 9-10 (the “asserted claims”) of U.S. Patent No. 7,004,766 (“the ’766 patent”). The complaint further alleges the existence of a domestic industry. The Commission’s notice of investigation names the following respondents: Robert Bosch GmbH of Baden-Wuerttemberg, Germany; Bosch Automotive Products (Suzhou) Co., Ltd. of Jiangsu, China; and Hon Hai Precision Industry Co., Ltd. of New Tapei City, Taiwan (collectively, “the Non-Importing Respondents”); Robert Bosch LLC of Broadview, Illinois; Robert Bosch, Sistemas Automatrices, S.A. de C.V. of Chihuahua, Mexico; Foxconn Interconnect Technology, Ltd. of New Tapei City, Taiwan (“Bosch”) (the “Respondents” are the Non-Importing Respondents and Bosch, collectively); and Robert Bosch, Ltda. (“Bosch Brazil”) of Sao Paulo, Brazil. The Office of Unfair Import Investigations is not participating in the investigation. The Commission later terminated Bosch Brazil from the investigation. *See* Order No. 68 (November 8, 2018), *unreviewed by* Comm’n Notice (December 3, 2018).

On April 12, 2019, the ALJ issued his final ID finding a violation of section 337. The ID finds that the Non-Importing Respondents do not satisfy the importation requirement of section 337(a)(1)(B). The ID further finds that the accused products infringe the asserted claims. The ID also finds that the asserted claims are not invalid under 35 U.S.C. 102 or 103, including finding that the prior art Tyco Docking Station Connector (“Tyco Connector”) does not anticipate the

asserted claims. In addition, the ID finds that JST satisfied the domestic industry requirement with respect to the '766 patent. In the same document, the ALJ recommended that if the Commission finds a violation, it should issue a limited exclusion order directed to Bosch's infringing products and no cease and desist orders.

On April 29, 2019, Respondents petitioned, and JST contingently petitioned, for review of the final ID. On May 7, 2019, JST and Respondents each filed a response in opposition to the other party's petition for review.

On June 24, 2019, the Commission determined to review the final ID in its entirety. *See* 84 FR 31098-99 (June 28, 2019). The Commission also requested the parties to respond to certain questions concerning the issues under review and requested written submissions on the issues of remedy, the public interest, and bonding from the parties and interested non-parties. *Id.*

On July 8 and 15, 2019, respectively, JST and Respondents each filed a brief and a reply brief on all issues for which the Commission requested written submissions.

Having reviewed the record in this investigation, including the ALJ's final ID and the parties' written submissions, the Commission has determined to affirm in part, modify in part, reverse in part, and take no position with respect to certain portions of the final ID's findings. Specifically, the Commission has determined to construe the limitation "first holes are provided in end regions of the tine plate proximate to two opposite ends of the tine plate in the longitudinal direction" recited in claim 2 of the '766 patent to require that the first (elongated) holes at the periphery of the tine plate in the longitudinal direction must be closer to the periphery of the tine plate than any second hole. Based on this construction, the Commission has determined to reverse the final ID and find that the accused products do not infringe any of the asserted claims.

The Commission has also determined to reverse the ID and finds that the Tyco Connector anticipates the asserted claims. The Commission has also determined to take no position on: (1) the ID's finding that JST's domestic products practice claims 1, 2, 3, 6, 9, or 10 of the '766 patent to satisfy the domestic industry requirement; (2) the ID's other findings regarding non-invalidity of the asserted claims; and (3) the ID's finding that JST's investments and activities satisfied the domestic industry requirement. The Commission adopts and affirms the remainder of the final ID. The Commission has issued an opinion explaining the basis for the Commission's determination. Thus, the investigation is terminated with a determination of no violation of section 337.

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.

Lisa Barton
Secretary to the Commission

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