



7020-02

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1121]

Certain Earpiece Devices and Components Thereof

Commission Determination Not to Review an Initial Determination Granting a Motion to Terminate the Investigation With Respect to U.S. Patent No. 9,398,364; Termination of the Investigation in its Entirety

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (“ID”) (Order No. 20) of the presiding administrative law judge (“ALJ”), granting an unopposed motion to terminate the investigation based on withdrawal of the complaint with respect to U.S. Patent No. 9,398,364 (“the ’364 patent”). The investigation is terminated in its entirety.

FOR FURTHER INFORMATION CONTACT: Cathy Chen, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436, telephone (202) 205-2392. 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, DC 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 June 29, 2018, based on a complaint filed on behalf of Bose Corporation (“Bose”) of Framingham, Massachusetts. 83 FR 30,776 (Jun. 29, 2018). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (“section 337”) based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain earpiece devices and components thereof by reason of infringement of one or more claims of U.S. Patent Nos.: 9,036,852 (“the ’852 patent”); 9,036,853 (“the ’853 patent”); 9,042,590 (“the ’590 patent”); 8,311,253 (“the ’253 patent”); 8,249,287 (“the ’287 patent”); and the ’364 patent. The complaint further alleges that an industry in the United States exists as required by section 337. The notice of investigation named fourteen respondents. The Office of Unfair Import Investigations was also named as a party in this investigation.

On October 31, 2019, the Commission issued a general exclusion order, a limited exclusion order, and cease and desist orders with respect to one or more asserted claims of the ’852, ’853, ’590, ’287, and ’253 patents. The investigation was thereby terminated with respect to these five patents.

Also, on the October 31, 2019, the Commission remanded the investigation in part to the ALJ for further proceedings with respect to the ’364 patent. Commissioner Schmidlein did not join the decision to remand the investigation. Instead, she would have affirmed on modified grounds the determination that Bose demonstrated the existence of a domestic industry under subparagraphs 337(a)(3)(A) and (B) with respect to the ’364 patent.

On November 20, 2019, Bose filed an unopposed motion to terminate the investigation based on withdrawal of the complaint with respect to the ’364 patent.

On December 2, 2019, the ALJ issued the subject ID (Order No. 20), granting Bose’s

motion to terminate the investigation pursuant to Commission Rule 210.21(a)(1), 19 CFR 210.21(a)(1). The ALJ found that the motion complies with the Commission Rules, and that no extraordinary circumstances prohibit the termination of this investigation as requested by Bose. *See* Order No. 20 at 3 (Dec. 2, 2019).

No petitions for review were filed. The Commission has determined not to review the subject ID. The investigation is terminated in its entirety.

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.

Issued: December 23, 2019.

Lisa Barton,
Secretary to the Commission.

[FR Doc. 2019-28184 Filed: 12/30/2019 8:45 am; Publication Date: 12/31/2019]