



INTERNATIONAL TRADE COMMISSION

[Investigation. No. 337-TA-1384]

Certain Passive Optical Network Equipment; Notice of Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on November 14, 2023, under section 337 of the Tariff Act of 1930, as amended, on behalf of Optimum Communications Services, Inc. of Jersey City, New Jersey. An amended complaint was filed on November 22, 2023. The complaint, as amended, alleges violations of 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 passive optical network equipment by reason of the infringement of certain claims of U.S. Patent No. 7,558,260 (“the ’260 patent”) and U.S. Patent No. 7,333,511 (“the ’511 patent”). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute. The complainant requests that the Commission institute an investigation and, after the investigation, issue a general exclusion order, or in the alternative a limited exclusion, and a cease and desist order.

ADDRESSES: The complaint, except for any confidential information contained therein, may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205-2000. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>.

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205-2560.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2023).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on December 22, 2023, ORDERED THAT –

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether 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 products identified in paragraph (2) by reason of infringement of one or more of claims 1 and 12-14 of the '511 patent and claims 1 and 3 of the '260 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is “optical line termination (OLT) and optical network unit/terminal (ONU/ONT) equipment that conform to passive optical network standards of ITU-T Recommendation series G.984.x for Gigabit-capable Passive Optical Network (G-PON) and its successor standards, including 10GPON/XGS-PON (ITU-T Rec. G.987.3) and TWDM-PON/NG-PON2 (ITU-T Rec. G.989.3) as well as IEEE 802.3ah (EPON) and 802.3av (10G-EPON)”;

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

Optimum Communications Services, Inc.

344 Grove Street #242, Jersey City, NJ

07302

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Hangzhou Softel Optic Co., Ltd.

708 709 Haiwei Building, 101 Binkang Road,

Binjiang District, Hangzhou, Zhejiang, China 310051

Hangzhou DAYTAI Network Technologies Co., Ltd.

1513 Room, East Communications Building, No.398, Wensan Road,

Xihu District, Hangzhou City, Zhejiang Province, China 310013

Hangzhou Sumlo Industrial Co., Ltd.,

Room 706-707, Baiyun Bldg-2, No. 190, Tiancheng Road,

Hangzhou, Zhejiang, China 310007

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Suite 401, Washington, D.C. 20436; and

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), as amended in 85 FR 15798 (March 19, 2020), such responses will be considered by the Commission if received not later than 20 days after the date of service by the complainant of the complaint and the notice of

investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

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By order of the Commission.

Issued: December 26, 2023.

Katherine Hiner,

Supervisory Attorney.

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