



## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1355]

### **Certain Compact Wallets and Components Thereof; Notice of a Commission**

### **Determination to Review in Part a Final Initial Determination Finding a Violation of Section 337; Request for Written Submissions on the Issues Under Review and on Remedy, the Public Interest, and Bonding**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined to review in part the presiding administrative law judge's ("ALJ") final initial determination ("ID") finding a violation of section 337 in the above-captioned investigation.

The Commission requests written submissions from the parties on the issues under review and submissions from the parties, interested government agencies, and interested persons on the issues of remedy, the public interest, and bonding under the schedule set forth below.

**FOR FURTHER INFORMATION CONTACT:** Cathy Chen, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, telephone (202) 205-2392. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email [EDIS3Help@usitc.gov](mailto:EDIS3Help@usitc.gov). General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.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 15, 2023, based on a complaint filed by The Ridge Wallet, LLC of Santa Monica, California ("Ridge" or "Complainant"). 88 FR 16030-031 (Mar. 15, 2023). The complaint, as

supplemented, alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain compact wallets and components thereof by reason of trade dress infringement and infringement of claims 1-4, 9, and 12-17 of U.S. Patent No. 10,791,808 (“the ’808 patent”). *Id.* The Commission’s notice of investigation named Rosemar Enterprises LLC d/b/a RossM Wallet of Palm Springs, California (“RossM”); INSGG of Hangzhou City, Zhejiang Province, China; Mosaic Brands, Inc. of Alamo, California (“Mosaic”); Shenzhen Swztech Co., Ltd. d/b/a SWZA (“SWZA”) of Shenzhen, Guangdong, China; and Shenzhen Pinan Technology Co., Ltd. d/b/a ARW-Wallet (“ARW”) of Shenzhen, Guangdong, China as respondents. The Office of Unfair Import Investigations (“OUII”) also participated in this investigation.

After institution, Respondents RossM and INSGG were found in default (collectively, the “Defaulting Respondents”). *See* Order No. 12 (Jul. 11, 2023), *unreviewed by* Comm’n Notice (Jul. 28, 2023). In addition, Respondent Mosaic was terminated from the investigation based on settlement. *See* Order No. 16 (Sept. 6, 2023), *unreviewed by* Comm’n Notice (Sept. 22, 2023).

Before the evidentiary hearing, the investigation was terminated as to Ridge’s trade dress allegations and as to Ridge’s infringement allegations with respect to claims 3, 4, 9, 12, 13, 15, 16, and 17 of the ’808 patent. *See* Order No. 25 (Oct. 6, 2023), *unreviewed by* Comm’n Notice (Nov. 6, 2023).

Only Respondents SWZA and ARW (collectively, the “Participating Respondents”) participated at the evidentiary hearing held on November 6-7, 2023. After the hearing, counsel for the Participating Respondents withdrew after being “discharged” by the Participating Respondents. *ID* at 2 (citing Order No. 30 (Dec. 13, 2023)). The Participating Respondents did not file post-hearing briefs. *Id.* at 3.

On March 15, 2024, the ALJ issued a combined final *ID* and recommended determination (“RD”), finding a violation of section 337 by the Defaulting Respondents and the Participating

Respondents. Specifically, the final ID found, *inter alia*, that the importation requirement is satisfied as to the accused products; that the accused products infringe claims 1, 2, and 14 of the '808 patent; that Ridge has satisfied the domestic industry requirement with respect to the '808 patent; and that claims 1, 2, and 14 have not been shown to be invalid. In addition, the RD recommended that the Commission issue a general exclusion order and a cease and desist order directed to each of the respondents. The RD also recommended that the Commission impose a one-hundred percent (100%) bond during the period of Presidential review.

On April 15, 2024, Ridge filed a statement on public interest pursuant to Commission Rule 210.50(a)(4), 19 CFR 210.50(a)(4).

No petitions for review were filed, which means each party has abandoned all issues decided adversely to that party. *See* 19 CFR 210.43(b)(4).

Having reviewed the record of the investigation, including the final ID, the parties' submissions to the ALJ, and the record evidence, the Commission has determined to review the ID in part on its own initiative. 19 CFR 210.44. Specifically, the Commission has determined to review the ID's findings with respect to jurisdiction and the economic prong.

In connection with its review, the Commission requests responses to the following questions. The parties are requested to brief their positions with reference to the applicable law and the existing evidentiary record.

1. Explain the basis for considering investments prior to the issuance of a patent (pre-issuance investments) for purposes of a domestic industry under 19 U.S.C. § 1337(a)(3)(A) and (B). How do the Federal Circuit's cases holding that there is an "articles" requirement for all subparagraphs (A)-(C) of section 337(a)(3) affect the Commission's reasoning in *Video Game Systems* crediting engineering and research and development investments that predate the issuance of a patent under certain circumstances? *See Certain Video Game Systems and Controllers*, Inv. No. 337-TA-743, Comm'n Op., 2011 WL 1523774, at \*4 (Apr. 14, 2011); *Motiva, LLC v. ITC*, 716 F.3d

596, 600-601 (Fed. Cir. 2013) (citing *Interdigital Commc'ns, LLC v. ITC*, 707 F.3d 1295, 1297-98 (Fed. Cir. 2013) (“[J]ust as the “plant or equipment” referred to in subparagraph (A) must exist with respect to articles protected by the patent, such as by producing protected goods, the research and development or licensing activities referred to in subparagraph (C) must also exist with respect to articles protected by the patent, such as by licensing protected products.”)).

2. Regardless of pre- or post-issuance status of investments, how far back in time should the Commission look to in determining whether a domestic industry exists in a section 337 investigation? What factors should the Commission consider in determining the timeframe over which investments may be counted towards a domestic industry analysis?
3. As of the filing of the complaint, how many full-time equivalent (FTE) employees were employed by Complainant in the “design and development team” working on product research, design, development, and/or engineering work related to the domestic industry products?
4. Provide any information in the record about foreign labor expenditures associated with the manufacturing of the domestic industry products for the time period Aug. 2016-Feb. 2023, and also for the narrower post-issuance time period Oct. 2020-Feb. 2023.
5. Provide any information in the record about foreign capital expenditures associated with the manufacturing of the domestic industry products for the time period Aug. 2016-Feb. 2023, and also for the narrower post-issuance time period Oct. 2020-Feb. 2023.
6. Provide any information in the record about foreign plant and equipment expenditures associated with the manufacturing of the domestic industry products for the time period Aug. 2016-Feb. 2023, and also for the narrower post-issuance time period Oct. 2020-Feb. 2023.

In connection with the final disposition of this investigation, the statute authorizes issuance of, *inter alia*, (1) an exclusion order that could result in the exclusion of the subject

articles from entry into the United States; and/or (2) cease and desist orders that could result in the respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843, Comm'n Op. at 7-10 (Dec. 1994).

The statute requires the Commission to consider the effects of that remedy upon the public interest. The public interest factors the Commission will consider include the effect that an exclusion order and cease and desist orders would have on: (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve, disapprove, or take no action on the Commission's determination. See Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

**Written Submissions:** The parties to the investigation are requested to file written submissions on the issues identified in this notice. Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues

of remedy, the public interest, and bonding. Such submissions should address the recommended determination by the ALJ on remedy and bonding.

In its initial submission, Complainant is also requested to identify the remedy sought and Complainant and OUII are requested to submit proposed remedial orders for the Commission's consideration. Complainant is further requested to state the date that the Asserted Patent expires, to provide the HTSUS subheadings under which the accused products are imported, and to supply the identification information for all known importers of the products at issue in this investigation. The initial written submissions and proposed remedial orders must be filed no later than close of business on May 30, 2024. Reply submissions must be filed no later than the close of business on June 6, 2024. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. The Commission's paper filing requirements in 19 CFR 210.4(f) are currently waived. 85 FR 15798 (March 19, 2020). Submissions should refer to the investigation number (Inv. No. 337-TA-1355) in a prominent place on the cover page and/or the first page. (*See Handbook for Electronic Filing Procedures, [https://www.usitc.gov/documents/handbook\\_on\\_filing\\_procedures.pdf](https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf)*). Persons with questions regarding filing should contact the Secretary, (202) 205-2000.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment by marking each document with a header indicating that the document contains confidential information. This marking will be deemed to satisfy the request procedure set forth in Rules 201.6(b) and 210.5(e)(2) (19 CFR 201.6(b) & 210.5(e)(2)). Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. Any non-party wishing to submit comments containing confidential information must serve those comments on the parties to the investigation pursuant to the applicable Administrative Protective Order. A redacted non-confidential version of the document must also be filed with

the Commission and served on any parties to the investigation within two business days of any confidential filing. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. Government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection on EDIS.

The Commission vote for this determination took place on May 16, 2024.

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).

While temporary remote operating procedures are in place in response to COVID-19, the Office of the Secretary is not able to serve parties that have not retained counsel or otherwise provided a point of contact for electronic service. Accordingly, pursuant to Commission Rules 201.16(a) and 210.7(a)(1) (19 CFR 201.16(a), 210.7(a)(1)), the Commission orders that the Complainant(s) complete service for any party/parties without a method of electronic service noted on the attached Certificate of Service and shall file proof of service on the Electronic Document Information System (EDIS).

By order of the Commission.

Issued: May 16, 2024.

**Lisa Barton,**

*Secretary to the Commission.*