



**INTERNATIONAL TRADE COMMISSION**

**[Investigation No. 337-TA-1351 (Remand)]**

**Certain Active Matrix Organic Light-Emitting Diode Display Panels and Modules for Mobile Devices, and Components Thereof; Notice of a Commission Determination to Review in Part a Final Initial Determination Finding No 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 a final initial determination (“ID”) issued by the presiding administrative law judge (“ALJ”), finding no violation of section 337 of the Tariff Act of 1930. 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, 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 may be viewed on the Commission’s electronic docket system (“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, telephone (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on February 3, 2023, based on a complaint filed Samsung Display Co., Ltd. (“SDC” or “Complainant”) of the Republic of Korea. 88 FR 7463-64 (Feb. 3, 2023). The complaint, as

supplemented, alleged violations 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 active matrix organic light-emitting diode display panels and modules for mobile devices, and components thereof by reason of infringement of claims 1-5 and 19-21 of U.S. Patent No. 9,818,803 (“the ’803 patent”); claims 1, 2, 4-10, and 13 of U.S. Patent No. 10,854,683 (“the ’683 patent”); claims 1-18 of U.S. Patent No. 7,414,599 (“the ’599 patent”); and claims 1-3, 6-8, and 14-22 of U.S. Patent No. 9,330,593 (“the ’593 patent”). *Id.* The complaint further alleged that a domestic industry exists. *Id.* The notice of investigation named the following parties as respondents: Injured Gadgets, LLC (“Injured Gadgets”) of Norcross, Georgia; Wholesale Gadget Parts, Inc. (“Wholesale Gadget Parts”) of Bixby, Oklahoma; Phone LCD Parts LLC and Parts4LCD (collectively, “Phone LCD Parts”) of Wayne, New Jersey; Apt-Ability LLC d/b/a MobileSentry of Chantilly, Virginia; Mobile Defenders, LLC of Caledonia, Michigan; Group Vertical, LLC (“Group Vertical”) of Grand Rapids, Michigan; Electronics Universe, Inc. d/b/a Fixez.com and Electronics Universe, Inc. d/b/a Repairs Universe, Inc. (“Electronics Universe”) of Las Vegas, Nevada; LCTech International Inc. d/b/a SEGMobile.com (“LCTech”) of City of Industry, California; Sourcely Plus, LLC (“Sourcely Plus”) of Tempe, Arizona; eTech Parts Plus LLC (“eTech Parts Plus”) of Southlake, Texas; Parts4Cells Inc. (“Parts4Cells”) of Houston, Texas; Captain Mobile Parts, Inc. (“Captain Mobile Parts”) of Dallas, Texas; DFW Imports LLC d/b/a DFW Cellphone and Parts (“DFW Imports”) of Dallas, Texas; Mengtor Inc. (“Mengtor”) of El Monte, California; and Gadgetfix Corp. (“Gadgetfix”) of Irvine, California. *Id.* The notice of investigation also named the Office of Unfair Import Investigations (“OUII”) as a party. *Id.*

On March 22, 2023, the Commission granted Mianyang BOE Optoelectronics Technology Co., Ltd.’s (“BOE”) unopposed motion to intervene as a respondent in this investigation. Order No. 7, *unreviewed by*, Comm’n Notice (Mar. 22, 2023).

Two respondents, Apt-Ability LLC d/b/a MobileSentry and Mobile Defenders, LLC, were terminated based on a consent order. Order No. 43, *unreviewed by*, Comm’n Notice (Apr.

18, 2024). Ten respondents, Captain Mobile Parts, Group Vertical, Sourcely Plus, Mengtor, Electronics Universe, LCTech, Parts4Cells, DFW Imports, Gadgetfix, and eTech Parts Plus (collectively, “the Defaulting Respondents”), were found in default. Order No. 16, *unreviewed by*, Comm’n Notice (June 7, 2023); Order No. 22, *unreviewed by*, Comm’n Notice (July 20, 2023); Order No. 25, *unreviewed by*, Comm’n Notice (Aug. 18, 2023); Order No. 27, *unreviewed by*, Comm’n Notice (Aug. 30, 2023). Accordingly, respondents Injured Gadgets, Wholesale Gadget Parts, and Phone LCD Parts (collectively, “the BLF Respondents”) and BOE remain active in the investigation.

On April 20, 2023, the Commission granted SDC’s motion for leave to amend the complaint and notice of investigation to add allegations of infringement related to claims 1-6, 10, 12, 17, 19, 21-23, 40-47, and 51-52 of the ’578 patent. Order No. 8, *unreviewed by*, Comm’n Notice (Apr. 20, 2023). As a result of termination of all asserted claims of the ’683 patent and certain other asserted claims, *see* Order No. 34 (Oct. 26, 2023), *unreviewed by*, Comm’n Notice (Nov. 27, 2024), Order No. 39 (Dec. 7, 2023), *unreviewed by*, Comm’n Notice (Jan. 8, 2024), Order No. 51 (Jun. 14, 2024), *unreviewed by*, Comm’n Notice (Jul. 3, 2024), Order No. 65 (Aug. 27, 2024), *unreviewed by*, Comm’n Notice (Sept. 26, 2024), only claims 5 and 21 of the ’803 patent, claims 5, 10, 17, 40-41, and 47 of the ’578 patent, claims 2-3, 13, and 15-16 of the ’599 patent, and claim 6 of the ’593 patent remain asserted in the investigation.

On November 15, 2023, the BLF Respondents and BOE (collectively, “Respondents”) moved for summary determination that SDC lacked constitutional standing to bring and maintain this investigation. Respondents argued because SDC’s parent company, Samsung Electronics Co., Ltd. (“SEC”), “has an unfettered right to grant licenses, SDC lacks the exclusionary rights necessary to prove standing.” Mot. at 18. Finding that “there is no genuine issue of material fact that SEC has an unrestricted right to sublicense the Asserted Patents to others” and that SEC’s possession of such a right divested SDC of exclusionary rights, on January 9, 2024, the ALJ

granted Respondents' motion for summary determination of no violation due to lack of standing. Order No. 44 at 13, 24-25 (Jan. 9, 2024).

On April 24, 2024, the Commission vacated that initial determination and remanded the investigation for further proceedings consistent with its opinion. In its opinion, the Commission found that "(1) constitutional standing, the Article III requirements of the Constitution related to the authority of federal courts to adjudicate lawsuits, is not required at [the] Commission; and (2) there are genuine issues of material facts relating to [Complainant's] rights in the asserted patents." Comm'n Op. at 2. The Commission remanded the investigation to the ALJ to "conduct further proceedings as appropriate and consistent with the Commission's opinion herewith." *Id.*

On May 2, 2024, the ALJ held a case management conference to discuss how the case would proceed on remand. Respondent BOE indicated that it wished to argue that SDC lacked "all substantial rights" to the asserted patents when it filed its complaint and that it wished to pursue discovery from SEC on this issue. Order No. 50 at 3. SDC responded that a statutory cause of action defense had never previously been raised and thus was waived. *Id.* at 5. OUII noted that "Respondents' argument that [SDC] may not have owned the asserted patents when it filed the complaint because it did not hold all substantial rights is fundamentally different from the argument advanced in Respondents' motion for summary determination." *Id.* The ALJ then ordered "additional briefing" on "the effect of the Commission opinion on th[e] Investigation." Order No. 47, EDIS Doc. ID 820416, at 1 (May 3, 2024). Following briefing on remand, the ALJ found that Respondents waived their argument that SDC failed to satisfy the requirement of Commission Rule 210.12 because Respondents did not address this issue in their prehearing brief, as required by the ALJ's Ground Rules. *ID* at 4 (citing Order No. 50 at 4 (June 11, 2024)).

The evidentiary hearing was held on July 8-9, 2024, and July 15-17, 2024.

On November 15, 2024, the ALJ issued a final ID finding no violation of section 337 because SDC failed to show the existence of a domestic industry, among other reasons. In

particular, the ID found: (1) SDC failed to satisfy the economic prong of the domestic industry requirement for all asserted patents; (2) SDC satisfied the technical prong of the domestic industry requirement for the '803, the '578, and the '599 patents but not for the '593 patent; (3) at least one representative accused product infringes claims 5 and 21 of the '803 patent, claims 5, 10, 17, 40-41, and 47 of the '578 patent, claims 15-16 of the '599 patent, and claim 6 of the '593 patent but not claims 2-3 and 13 of the '599 patent; and (4) the claims have not been shown to be invalid.

On November 29, 2024, SDC filed a petition for review of the ID challenging certain findings related to the '803, the '578, and the '599 patents, including the economic prong of the domestic industry requirement. SDC did not petition for review of the ID's findings related to the '593 patent. That same day, Respondent BOE and the BLF Respondents filed a joint contingent petition for review. OUII did not file a petition for review. On December 9, 2024, Complainant, Respondents, and OUII each filed a response to the petitions.

The Commission solicited submissions from the public on the public interest issues raised by the recommended determination. 89 FR 92721 (Nov. 22, 2024). The Commission received comments from Representative John Moolenaar, Chairman of the House Select Committee on China, and Dr. Robert D. Atkinson of the Information Technology & Innovation Foundation.

On January 8, 2025, SDC filed a notice of supplemental authority to apprise the Commission of the Patent Trial and Appeal Board's final written decisions in *inter partes* review proceedings on the '578 patent and the '803 patent. In the final written decisions, the Board found claim 21 of the '803 patent unpatentable and all other asserted claims of the '578 and '803 patents at issue in this investigation have not been proven unpatentable. *See Mianyang BOE Optoelectronics Tech. Co., Ltd. v. Samsung Display Co., Ltd.*, IPR2023-00987, Final Written Decision (Jan. 6, 2025); *Mianyang BOE Optoelectronics Tech. Co., Ltd. v. Samsung Display Co., Ltd.*, IPR2023-01075, Final Written Decision (Jan. 6, 2025).

Having reviewed the record of the investigation, including the final ID, the parties' submissions to the ALJ, the petitions for review, and the responses thereto, the Commission has determined to review the ID in part. Specifically, the Commission has determined to review: (1) the ID's findings that the Commission has statutory authority to investigate Complainant SDC's alleged violation under section 337 and that Respondents waived their argument that SDC lacked the ability to bring this investigation under Commission Rule 210.12; (2) the ID's findings related to the technical prong for the '803 patent; and (3) the ID's findings regarding the economic prong of the domestic industry requirement. The Commission has determined not to review any other findings presented in the final ID, including the ID's finding of no violation of section 337 with respect to the '593 patent.

In connection with its review, 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. Did Respondents raise in their prehearing brief an argument that Complainant was not the owner of the asserted patents or otherwise lacked all substantial rights in the asserts patents and therefore lacked the ability to bring this investigation under Commission Rule 210.12? If so, please identify where in the brief this argument was raised?
2. Assuming SEC possessed an unrestricted right to sublicense the asserted patents when SDC filed the complaint, please address the merits of Respondents' argument that SDC was not the owner of the asserted patents under Commission Rule 210.12.
3. Did any party bring to the ALJ's attention that the asserted claims of the '803 patent were subject to an *inter partes* review proceeding and that the outcome of the proceeding could affect this investigation including the ALJ's technical prong findings for the '803 patent?

The parties are invited to brief only the discrete issues requested above. The parties are not to brief other issues on review, which are adequately presented in the parties' existing filings.

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/or a cease and desist order 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. The parties' opening submissions should not exceed 50 pages, and their reply submissions should not exceed 25 pages. 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, public interest, and bonding.

In their initial submissions, 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 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 Thursday, January 30, 2025. Reply submissions must be filed no later than the close of business on Thursday, February 6, 2025. 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-1351) 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 January 16, 2025.

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: January 16, 2025.

**Lisa Barton,**

*Secretary to the Commission.*