



INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1369]

Certain Icemaking Machines and Components Thereof; Notice of a Final Determination Finding a Violation of Section 337 and Issuance of Remedial Orders; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (the “Commission”) has determined that: (i) the respondents have violated section 337 of the Tariff Act of 1930, as amended, by importing, selling for importation, and selling in the United States after importation certain icemaking machines and components thereof that infringe certain claims of U.S. Patent No. 10,107,538 (“the ’538 patent”), U.S. Patent No. 10,113,785 (“the ’785 patent”), and U.S. Patent No. 10,458,692 (“the ’692 patent”); (2) the appropriate remedies are a limited exclusion order (“LEO”) and cease and desist orders (“CDOs”); and (3) a bond in the amount of forty-nine percent (49%) of the entered value of the excluded products is appropriate during the period of Presidential review under 19 U.S.C. 1337(j). This investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Benjamin S. Richards, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-5453. 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. 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: On August 16, 2023, the Commission instituted this investigation based on a complaint filed by Hoshizaki America, Inc. of Peachtree City, Georgia

(“Hoshizaki”). 88 FR 55721-22 (Aug. 16, 2023). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based upon the importation into the United States, the sale for importation, or the sale within the United States after importation of certain icemaking machines and components thereof by reason of the infringement of one or more of claims 1-3, 6-8, and 11-20 of the ’538 patent; claims 1-4, 10-13, and 16 of the ’785 patent; and claims 1, 2, 5-9, and 11-14 of the ’692 patent. *Id.* at 55722. The Commission’s notice of investigation named as respondents Blue Air FSE LLC of Gardena, California; and Bluenix Co., Ltd. of Gyeonggi-do, Republic of Korea (collectively, “Bluenix”). The Office of Unfair Import Investigations was also named as a party in this investigation but ceased participating on October 13, 2023. *Id.*; *see also* EDIS Doc. ID 805894.

The CALJ issued IDs terminating the following claims from the investigation at Hoshizaki’s request: claims 2, 8, 11–18, and 20 of the ’538 patent; claims 2–4, 11–13, and 16 of the ’785 patent; and claims 2, 6–8, and 11–14 of the ’692 patent. Order No. 9 (Dec. 19, 2023), *unreviewed*, Comm’n Notice, EDIS Doc. ID 811832 (Jan. 11, 2024); Order No. 15 (Apr. 8, 2024), *unreviewed*, Comm’n Notice, EDIS Doc. ID 819782 (Apr. 26, 2024).

On April 25, 2024, the ALJ issued an ID granting Hoshizaki’s unopposed motion for summary determination that Hoshizaki satisfied the domestic industry requirement. Order No. 16 (Apr. 25, 2024). The Commission reviewed and then affirmed that ID. Comm’n Notice, EDIS Doc. ID 822414 (May 29, 2024).

The CALJ conducted an evidentiary hearing from May 6, 2024, through May 10, 2024.

On August 30, 2024, the CALJ issued his final ID on violation. That ID found that a violation of section 337 had occurred in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain icemaking machines and components thereof that infringe claims 1, 3, 6, 7, and 19 of the ’538 patent, claims 1 and 10 of the ’785 patent, and claims 1, 5, and 9 of the ’692 patent. Also on August 30, 2024, the CALJ issued his recommended determination on remedy and bonding. The CALJ recommended, upon

a finding of violation, that the Commission issue an LEO, issue CDOs, and impose a bond in the amount of forty-nine percent (49%) of the entered value of any covered products imported during the period of Presidential review.

On September 16, 2024, Bluenix filed a petition for review of the ID, and Hoshizaki filed a contingent petition for review of the ID. On September 23, 2024, Bluenix filed a response to Hoshizaki's contingent petition for review. On September 24, 2024, Hoshizaki filed a response to Bluenix's petition for review.

On November 25, 2024, the Commission determined to review the ID's finding that the respondents infringed the '785 and '692 patents. The Commission sought briefing on eleven questions related to those findings and on remedy, the public interest, and bonding. The Commission did not review any part of the ID's finding that Bluenix violated section 337 with respect to the '538 patent, and that finding became the Commission's final determination on that issue.

On December 9, 2024, Hoshizaki and Bluenix submitted their initial submissions in response to the Commission's notice of review. Thereafter, on December 16, 2024, Hoshizaki and Bluenix submitted responses to the other's initial submission. On December 19, 2024, Hoshizaki sought leave to supplement its submissions with additional remedy information. The Chair of the Commission granted Hoshizaki's request on December 20, 2024.

Having considered the parties' submissions, the ID, and the record in this investigation, the Commission has determined to affirm the ID's finding that Bluenix has violated section 337 by importing into the United States, selling for importation into the United States, and selling in the United States after importation certain icemaking machines and components thereof that infringe claims 1 and 10 of the '785 patent and claims 1, 5, and 9 of the '692 patent.

Accordingly, and in conjunction with the Commission's earlier determination not to review the ID's infringement findings for the '538 patent, the Commission's final determination in this investigation is that Bluenix violated section 337 with respect to all three asserted patents.

The Commission has determined that the appropriate remedy is: (a) an LEO prohibiting the importation of certain icemaking machines and components thereof that infringe one or more of claims 1, 3, 6, 7, and 19 of the '538 patent, claims 1 and 10 of the '785 patent, and claims 1, 5, and 9 of '692 patent; and (b) CDOs against Bluenix. The Commission has determined that the public interest factors enumerated in section 337(d)(1) and (f)(1) do not preclude issuance of the limited exclusion order or cease and desist orders. The Commission has also determined to set a bond in the amount of forty-nine percent (49%) of the entered value of the excluded products imported during the period of Presidential review (19 U.S.C. 1337(j)).

The Commission's orders and opinion were delivered to the President and United States Trade Representative on the day of their issuance.

The Commission vote for this determination took place on February 13, 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 210).

By order of the Commission.

Issued: February 13, 2025.

Lisa Barton,

Secretary to the Commission.

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