



INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1329]

Certain Audio Players and Components Thereof (I); Notice of a Commission

Determination to Adopt an Initial Determination Granting Summary Determination of Invalidation and Finding No Violation; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (“Commission”) has determined to adopt an initial determination (“ID”) (Order No. 39) issued by the presiding administrative law judge (“ALJ”) granting respondent’s motion for summary determination of invalidity of the asserted patent claims due to indefiniteness. The Commission previously vacated the ID’s termination for “good cause.” The investigation is terminated with a finding of no violation of section 337.

FOR FURTHER INFORMATION CONTACT: Carl P. Bretscher, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, telephone (202) 205-2382. 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 on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on September 15, 2022, based on a complaint filed by Google LLC (“Google”) of Mountain View, California. 87 FR 56702-703 (Sept. 15, 2022). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (“section 337”),

in the importation into the United States, sale for importation, or sale in the United States after importation of certain audio players and components thereof by reason of infringement of certain asserted claims of U.S. Patent Nos. 7,705,565 (“the ’565 patent”); 10,593,330 (“the ’330 patent”); and 10,134,398 (“the ’398 patent”). *Id.* The complaint further alleges that a domestic industry exists. *Id.* The Commission’s notice of investigation names Sonos, Inc. (“Sonos”) of Santa Barbara, California as the sole respondent. *Id.* at 56703. The Office of Unfair Import Investigations was not named as a party to this investigation. *Id.*

On November 2, 2022, the Commission terminated the investigation with respect to the ’565 patent. Order No. 7 (Oct. 18, 2022), *unreviewed by Comm’n Notice* (Nov. 2, 2022).

On November 30, 2022, the parties filed a joint claim construction chart, identifying the term “low power mode” among the terms in dispute. The ALJ held a *Markman* hearing on January 19, 2023.

After the *Markman* hearing, the Commission granted the parties’ multiple requests for extensions of time, in order to accommodate the U.S. Patent and Trademark Office Patent Trial and Appeal Board’s (“PTAB”) *inter partes* review (“IPR”) of the patents at issue. On May 15, 2024, the PTAB issued two Final Written Decisions (“FWD”), concluding that all of the challenged claims of the asserted patents are unpatentable under 35 U.S.C. 318(a). *Sonos, Inc. v. Google LLC*, IPR2023-00119, Patent No. 10,593,330, Final Written Decision Determining All Challenged Claims Unpatentable (May 15, 2024); *Sonos, Inc. v. Google LLC*, IPR2023-00118, Patent No. 10,134,398, Final Written Decision Determining All Challenged Claims Unpatentable (May 15, 2024).

On May 17, 2023, Sonos filed a motion for summary determination of invalidity, arguing that the asserted claims of the ’330 patent and the ’398 patent are, *inter alia*, invalid as indefinite (“First MSD”). Google filed its opposition to Sonos’s First MSD on May 30, 2023.

On July 31, 2024, Sonos filed its second motion for summary determination of invalidity (“Second MSD”), arguing that all of the asserted patent claims are invalid as anticipated or

obvious. Google filed its opposition to Sonos's Second MSD on August 20, 2024.

On February 4, 2025, the presiding ALJ issued an order (Order No. 35) inviting the parties to file a motion to terminate the investigation in view of the PTAB's two FWDs finding the asserted patent claims "unpatentable" under 35 U.S.C. § 318(a). Order No. 35 (Feb. 4, 2025), *clarified in* Order No. 36 (Feb. 19, 2025).

On February 14, 2025, Sonos moved to terminate the investigation for "good cause" in view of the PTAB's FWDs of unpatentability. Google filed its opposition to Sonos's termination motion on February 28, 2025.

On March 7, 2025, the presiding ALJ issued a claim construction order (Order No. 37) finding that the claim term "low power mode," which is used in both of the remaining patents, is indefinite, and the asserted patent claims are thus invalid. Order No. 37 (March 7, 2025).

Also on March 7, 2025, the ALJ issued an order (Order No. 38) denying Sonos' Second MSD because Sonos is estopped from asserting the same prior art in the present investigation that it asserted in the PTAB proceedings. Order No. 38 (March 7, 2025) (citing 35 U.S.C. 315(e)(2)).

Further on March 7, 2025, the ALJ issued the subject ID (Order No. 39) granting Sonos's First MSD of invalidity because the claim term "low power mode" is indefinite. Order No. 39 (March 7, 2025) (citing Order No. 37, *supra*). The ALJ also granted Sonos's motion to terminate the investigation for "good cause" due to the PTAB's two FWDs of unpatentability.

No party timely filed a petition for review of the subject ID.

On April 8, 2025, the Commission reviewed the ID in part and, on review, adopted the ID's finding that the asserted patent claims are invalid as indefinite, but vacated that portion of the ID that terminated the investigation for "good cause." 90 FR 15579-80 (Apr. 14, 2025). The Commission thus terminated the investigation with a finding of no violation of section 337 due to the finding that the claims are invalid as indefinite and thus cannot be infringed.

On April 18, 2025, Google filed a Petition for Reconsideration and Petition for Review of

the ALJ's Initial Determination Granting Motion for Summary Determination Based on Indefiniteness. Google argued that it did not receive timely service of the ID and, thus, did not have the opportunity to file a timely petition for review of the ID. Google attached its petition for review to its petition for reconsideration.

On April 25, 2025, Sonos filed a response to Google's petition for reconsideration. While noting that the ID was publicly available and that Google only implied it did not have actual notice of the ID, Sonos took no position on Google's motion for reconsideration. Sonos also asked for eight days to respond to Google's petition for review if its motion for reconsideration were granted.

On May 27, 2025, the Commission granted Google's petition for reconsideration, vacated its previous determination of April 8, 2025, and reopened the investigation to consider Google's petition for review. Comm'n Notice (May 27, 2025). The Commission accepted Google's petition for review as filed, gave Sonos eight days to respond to Google's petition for review, and reinstated the investigation's previous target date of July 7, 2025.

Sonos timely filed its response to Google's petition for review on June 5, 2025.

Upon consideration of Order Nos. 37 and the ID, Google's petition for review, Sonos's response thereto, and related submissions, the Commission has determined to adopt the ID's finding that the asserted claims of the '330 patent and '398 patent are invalid because the term "low power mode" is indefinite. Accordingly, the Commission finds there is no violation of section 337, per 19 U.S.C. 1337(a)(1)(B)(1) (requiring infringement of a valid claim for a finding of violation). The Commission previously vacated the ID's termination for "good cause." Comm'n Notice (Apr. 8, 2025). There is no basis in either Commission precedent or the Commission's rules to terminate an investigation based on a PTAB final written decision that may still be appealed. *See Certain Network Devices, Related Software and Components Thereof (II)*, Inv. No. 337-TA-945, Comm'n Op. at 12 (Aug. 2017) (explaining that "the law is clear that patent claims are valid until the PTO issues certificates cancelling those claims, which it cannot

do until the exhaustion of any appeals . . . take[n] from the PTAB’s final written decisions”).

The investigation is terminated based on the finding of no violation.

The Commission vote for this determination took place on July 7, 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: July 7, 2025.

Lisa Barton,

Secretary to the Commission.

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