

UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, D.C.

In the Matter of

CERTAIN VIDEO GAME SYSTEMS AND  
CONTROLLERS

Inv. Nos. 337-TA-743

NOTICE REGARDING INITIAL DETERMINATION ON VIOLATION OF SECTION  
337 AND RECOMMENDED DETERMINATION ON REMEDY AND BOND

(November 2, 2011)

On this date, I issued an initial determination on violation of section 337 and recommended determination on remedy and bond in the above-referenced investigation. Below are the conclusions of law from said filing, which are a matter of public record. A complete public version of the Initial Determination and Recommended Determination on Remedy and Bond will be issued when all the parties have submitted their redactions and I have had an opportunity to review the redactions.

**CONCLUSIONS OF LAW**

1. The Commission has subject matter jurisdiction, *in rem* jurisdiction, and *in personam* jurisdiction.
2. There has been an importation into the United States, sale for importation, or sale within the United States after importation of the accused video game systems and controllers, which are the subject of the alleged unfair trade allegations.
3. An industry does not exist in the United States that exploits U.S. Pat. No. 7,292,151, as required by 19 U.S.C. § 1337(a)(2).

4. There is no domestic industry in the process of being established that exploits U.S. Pat. No. 7,292,151, as required by 19 U.S.C. § 1337(a)(2).
5. Claims 16, 27, 28, 29, 30, 31, 32, 44, 57, 68, and 84 of U.S. Pat. No. 7,292,151 are not invalid.
6. The accused Nintendo products do not directly infringe claims 16, 27, 28, 29, 30, 31, 32, 44, 57, 68, and 84 of U.S. Pat. No. 7,292,151.
7. Nintendo is not liable for indirect infringement of U.S. Pat. No. 7,292,151.
8. Mr. Barry French is not a co-inventor of U.S. Pat. No. 7,292,151.
9. Motiva has standing to assert U.S. Pat. No. 7,292,151.
10. U.S. Patent No. 7,292,151 is not unenforceable due to inequitable conduct.
11. There is no violation of 19 U.S.C. § 1337(a)(1) with respect to U.S. Pat. No. 7,292,151.
12. An industry does not exist in the United States that exploits U.S. Pat. No. 7,492,268, as required by 19 U.S.C. § 1337(a)(2).
13. There is no domestic industry in the process of being established that exploits U.S. Pat. No. 7,492,268, as required by 19 U.S.C. § 1337(a)(2).
14. Claims 2, 4, 11, and 14 of U.S. Pat. No. 7,492,268 are not invalid.
15. The accused Nintendo products do not directly infringe claims 2, 4, 11, and 14 of U.S. Pat. No. 7,492,268.
16. Nintendo is not liable for indirect infringement of U.S. Pat. No. 7,492,268.
17. Mr. Barry French is not a co-inventor of U.S. Pat. No. 7,492,268.
18. Motiva has standing to assert U.S. Pat. No. 7,492,268.
19. U.S. Patent No. 7,492,268 is not unenforceable due to inequitable conduct.

20. There is no violation of 19 U.S.C. § 1337(a)(1) with respect to U.S. Pat. No.

7,492,268.

**SO ORDERED.**

A handwritten signature in black ink, consisting of a large, vertical, teardrop-shaped loop at the top, followed by several smaller, more complex strokes that form the letters 'R', 'K', 'R', 'Jr.', and 'A'. The signature is positioned above a horizontal line.

---

Robert K. Rogers, Jr.  
Administrative Law Judge