

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN LIQUID CRYSTAL DISPLAY
DEVICES AND PRODUCTS CONTAINING
THE SAME**

Investigation No. 337-TA-631

**NOTICE OF COMMISSION DECISION TO AFFIRM-IN-PART AND REVERSE-IN-PART A
FINAL INITIAL DETERMINATION FINDING A VIOLATION OF SECTION 337; ISSUANCE
OF A LIMITED EXCLUSION ORDER AND A CEASE AND DESIST ORDER; AND
TERMINATION OF THE INVESTIGATION**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to affirm-in-part and reverse-in-part a final initial determination (“ID”) of the presiding administrative law judge (“ALJ”) finding a violation of section 337 by the respondents’ products in the above-captioned investigation, and has issued a limited exclusion order directed against products of respondents Sharp Corporation of Japan; Sharp Electronics Corporation of Mahwah, New Jersey; and Sharp Electronics Manufacturing Company of America, Inc. of San Diego, California (collectively “Sharp”); and cease and desist orders direct against products of Sharp Electronics Corp. and Sharp Electronics Manufacturing Co.

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-5468. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.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 January 25, 2008, based on a complaint filed by Samsung Electronics Co., Ltd. (“Samsung”) of Korea. *73 Fed. Reg.* 4626-27. The complaint, as supplemented, alleges 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, and the sale within the United States after importation of certain liquid crystal display (“LCD”) devices and products containing the same by reason of infringement of certain claims of U.S. Patent Nos. 7,193,666; 6,771,344 (“the ‘344 patent”); 7,295,196; and 6,937,311 (“the ‘311 patent”). The complaint further alleges the existence of a domestic industry as to each asserted patent. The Commission’s notice of

investigation named the following respondents: Sharp Corporation of Japan; Sharp Electronics Corporation of Mahwah, New Jersey; and Sharp Electronics Manufacturing, Company of America, Inc. of San Diego, California.

On January 26, 2009, the ALJ issued his final ID finding a violation of section 337 by respondents as to the '311 and '344 patents only, and issued his recommended determinations on remedy and bonding. On February 9, 2009, Sharp and the Commission investigative attorney ("IA") filed petitions for review of the final ID. The IA and Samsung filed responses to the petitions on February 17, 2009.

On March 30, 2009, the Commission determined to review: 1) the ALJ's construction of the claim term "domain dividers" found in the '311 patent;" 2) the ALJ's determination that Sharp's LCD devices infringe the '311 patent; 3) the ALJ's determination that the '311 patent is not unenforceable; and 4) the ALJ's determination that the asserted claims of the '344 patent are not invalid as anticipated by U.S. Patent No. 5,309,264 ("the '264 patent").

The Commission requested the parties to respond to certain questions concerning the issues under review and requested written submissions on the issues of remedy, the public interest, and bonding from the parties and interested non-parties. 74 *Fed. Reg.* 15301-02 (April 3, 2009).

On April 10 and April 17, 2009, respectively, complainant Samsung, the Sharp respondents, and the IA filed briefs and reply briefs on the issues for which the Commission requested written submissions. Also, the Commission received four submissions from interested non-parties on the issues of remedy, the public interest, and bonding.

Having reviewed the record in this investigation, including the final ID and the parties' written submissions, the Commission has determined to affirm-in-part and reverse-in-part the ID. Particularly, the Commission has construed the term "domain dividers" in claims 6 and 8 of the '311 patent to be "apertures formed in the conductive layer comprising the electrode." Further, the Commission has reversed the ALJ's ruling of infringement of the '311 patent by Sharp's LCD devices and determined that these devices do not infringe claims 6 and 8 under the Commission's claim construction of "domain dividers." Also, the Commission has taken no position on the validity of the '311 patent pursuant to 35 U.S.C. § 112, ¶ 1, under the ALJ's construction of "domain dividers," or the unenforceability of the '311 patent. In addition, the Commission has affirmed the ALJ's finding that claims 7 and 8 of the '344 patent are not invalid in view of the '264 patent, and affirm his determination of a violation of section 337 with respect to the '344 patent.

Further, the Commission has made its determination on the issues of remedy, the public interest, and bonding. The Commission has determined that the appropriate form of relief is both: 1) a limited exclusion order prohibiting the unlicensed entry of LCD devices, including display panels and modules, and LCD televisions or professional displays containing the same that infringe claims 7 or 8 of the '344 patent, that are manufactured abroad by or on behalf of, or are imported by or on behalf of, Sharp, or any of its affiliated companies, parents, subsidiaries, licensees, contractors, or other related business entities, or successors or assigns; and 2) cease and desist orders prohibiting Sharp Electronics Corp. and Sharp Electronics Manufacturing Co. from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, offering for sale, transferring (except for exportation), and soliciting U.S. agents or distributors for, LCD devices, including display panels and

modules, and LCD televisions or professional displays containing the same that are covered by claims 7 or 8 of the '344 patent.

The Commission further determined that the public interest factors enumerated in section 337(d)(1) (19 U.S.C. § 1337(d)(1)) do not preclude issuance of the limited exclusion order or the cease and desist order. Finally, the Commission determined that no bond is required to permit temporary importation during the period of Presidential review (19 U.S.C. § 1337(j)). The Commission's orders and opinion were delivered to the President and to the United States Trade Representative on the day of its issuance.

The Commission has terminated this investigation. 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 sections 210.42, 210.45, and 210.50 of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.42, 210.45, 210.50).

By order of the Commission.

Marilyn R. Abbott
Secretary to the Commission

Issued: June 24, 2009