

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN ACCESS CONTROL
SYSTEMS AND COMPONENTS
THEREOF**

Investigation No. 337-TA-1016

**NOTICE OF A COMMISSION DETERMINATION TO REVIEW AND VACATE AN
INITIAL DETERMINATION GRANTING SUMMARY DETERMINATION OF
NON-INFRINGEMENT OF U.S. PATENT NO. 7,161,319, AND
REMAND TO THE PRESIDING ADMINISTRATIVE LAW JUDGE**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review an initial determination (“ID”) (Order No. 23) of the presiding administrative law judge (“ALJ”), granting summary determination of non-infringement of U.S. Patent No. 7,161,319 (“the ’319 patent”). On review, the Commission has determined to vacate the ID and remand the infringement determinations to the ALJ for further proceedings based on the Commission’s claim construction. The Commission has also determined to deny Complainant’s motion for leave to file a reply brief.

FOR FURTHER INFORMATION CONTACT: Cathy Chen, Esq., 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 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 SW, Washington, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://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 August 9, 2016, based on a complaint filed on behalf of The Chamberlain Group, Inc. (“CGI”) of Elmhurst, Illinois. 81 FR 52713 (Aug. 9, 2016). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, by reason of infringement of claims 1-4, 7-12, 15, and 16 of the ’319 patent; and certain claims of U.S. Patent Nos. 7,196,611 and 7,339,336. The complaint further alleges that a domestic industry exists. The Commission’s

notice of investigation named as respondents Techtronic Industries Co. Ltd. of Tusen Wan, Hong Kong; Techtronic Industries North America, Inc. of Hunt Valley, Maryland; One World Technologies Inc. of Anderson, South Carolina; OWT Industries Inc. of Pickens, South Carolina; Ryobi Technologies, Inc. (“Ryobi”) of Anderson, South Carolina; and Et Technology (Wuxi) Co., Ltd., of Zhejiang, China. The Office of Unfair Import Investigations is not participating in the investigation.

The complaint and Notice of Investigation were later amended to add Techtronic Trading Limited (“TTL”) of Kwai Chung, Hong Kong, and Techtronic Industries Factory Outlets, Inc. d/b/a Direct Tools Factory Outlet (“Direct Tools”) of Anderson, South Carolina, as respondents. *See* 81 FR 76382 (Nov. 2, 2016).

Respondent Ryobi was terminated from the investigation on November 7, 2016. *See* Order No. 6 (Oct. 17, 2016); *not rev’d by Comm’n Notice* (Nov. 7, 2016). Respondents TTL and Direct Tools were terminated from the investigation on March 15, 2017. *See* Order No. 15 (Feb. 14, 2017); *not rev’d by the Comm’n Notice* (Mar. 15, 2017).

Each of the asserted claims of the ’319 patent requires a “wall console,” which the ALJ construed to mean “a wall-mounted control unit including a passive infrared detector.” Order No. 13 at 18 (Jan. 26, 2017). On March 2, 2017, Respondents filed an unopposed motion for summary determination of non-infringement of the asserted claims of the ’319 patent based on the ALJ’s claim construction. On March 13, 2017, Complainant CGI filed a response in which it stated that it did not oppose the motion based on the ALJ’s construction of “wall console” and that it did not oppose the motion with respect to one accused product which is still under development to the extent it does not include a “wall console.” *See* Order No. 23 at 1 (Mar. 27, 2017).

On March 27, 2017, the ALJ issued the subject ID (Order No. 23) granting the motion. The ID found that “it is undisputed that Respondents’ accused products do not include a ‘wall console’ as required by the claims of the ’319 patent.” *Id.* at 5. The ID, thus, concluded that “there is no genuine issue of material fact over whether Respondents’ accused products infringe the ’319 patent.” *Id.*

On April 3, 2017, Complainant CGI filed a petition for review of the ID. Specifically, CGI urged the Commission to vacate the ID and the ALJ’s underlying construction of “wall console,” and “to remand to the ALJ the investigation into the infringement of the ’319 patent with instructions to accord the term ‘wall console’ its plain and ordinary meaning.” Complainant’s Petition at 7. On April 10, 2017, Respondents filed a joint response. CGI filed a motion for leave to file a reply brief on April 14, 2017.

The Commission has determined to review the ID in the entirety and to deny CGI’s motion for leave to file a reply brief. On review, the Commission has determined to construe “wall console” to have its plain and ordinary meaning: “a wall-mounted control unit.” The Commission has vacated the ID and remanded to the ALJ for further proceedings based on the Commission’s claim construction. A Commission opinion will be forthcoming.

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.

A handwritten signature in black ink, appearing to read "Lisa R. Barton". The signature is fluid and cursive, with the first name "Lisa" being the most prominent.

Lisa R. Barton
Secretary to the Commission

Issued: May 3, 2017