

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN DIGITAL VIDEO
RECEIVERS, BROADBAND
GATEWAYS, AND RELATED
HARDWARE AND SOFTWARE
COMPONENTS**

Investigation No. 337-TA-1158

**NOTICE OF COMMISSION DECISION TO EXTEND THE DATE FOR
DETERMINING WHETHER TO REVIEW AN INITIAL DETERMINATION FINDING
A VIOLATION OF SECTION 337**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to extend to October 9, 2020, the date for determining whether to review a final initial determination (“ID”) of the presiding administrative law judge (“ALJ”) finding a violation of section 337.

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) 708-2310. 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 May 29, 2019, the Commission instituted this investigation based on a complaint filed by Rovi Corporation and Rovi Guides, Inc. (collectively, “Rovi”), both of San Jose, California. 84 FR 24814-15 (May 29, 2019). The complaint, as supplemented, alleged 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, and the sale within the United States after importation of certain digital video receivers, broadband gateways, and related hardware and software components by reason of infringement of certain claims of U.S. Patent Nos. 7,779,445 (“the ’445 patent”); 7,200,855 (“the ’855 patent”); 8,156,528 (“the ’528 patent”); 8,001,564 (“the ’564 patent”); 7,301,900 (“the ’900 patent”); and 7,386,871 (“the

'871 patent"). The complaint further alleged the existence of a domestic industry. The Commission's notice of investigation named as respondents Comcast Corporation, Comcast Cable Communications, LLC, Comcast Cable Communications Management, LLC, and Comcast Holdings Corporation (collectively, "Comcast"), all of Philadelphia, Pennsylvania. The Office of Unfair Import Investigations ("OUII") is partially participating in the investigation. The '528, '855, and '445 patents remain in the investigation and the '564, '900, and '871 patents have been terminated from the investigation. Order No. 18 (Sept. 30, 2019), *unreviewed by Comm'n Notice* (Oct. 15, 2019).

On July 14, 2020, the ALJ issued a written *Markman* Order. See Order No. 41 (Jul. 14, 2020).

On July 28, 2020, the ALJ issued the final ID finding a violation of section 337 as to the '528 and '855 patents based on infringement of the asserted claims by Comcast's accused products. Specifically, the ID found that: (1) Comcast's accused products infringe claims 13, 27, and 30 of the '528 patent and claims 60 and 63 of the '855 patent; (2) Comcast's accused products do not infringe asserted claim 5 of the '445 patent; (3) the asserted claims of the '528 and '855 patents are not invalid; (4) claims 5 and 15 of the '445 patent are invalid as anticipated under 35 U.S.C. 102(g)(2) by Comcast's VOD Vision System; and (5) Rovi has satisfied both prongs of the domestic industry requirement. The final ID also included the ALJ's recommended determination, which recommended the issuance of a limited exclusion order directed to Comcast's infringing products and a cease and desist order directed to Comcast.

On August 10, 2020, Rovi petitioned, and Comcast petitioned and contingently petitioned, for review of the final ID. On August 18, 2020, Rovi and Comcast each filed a response in opposition to the other party's petition for review.

The Commission has determined to extend the date for determining whether to review the final ID to October 9, 2020.

The Commission vote for this determination took place on September 24, 2020.

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.



Lisa R. Barton
Secretary to the Commission

Issued: September 25, 2020