

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 NOT TO REVIEW AN
INITIAL DETERMINATION GRANTING COMPLAINANTS' MOTION FOR
SUMMARY DETERMINATION ON IMPORTATION**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination ("ID") (Order No. 36) of the presiding administrative law judge ("ALJ"), granting complainants' motion for summary determination on importation.

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 alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 ("section 337"), 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; 7,200,855; 8,156,528; 8,001,564; 7,301,900; and 7,386,571. The complaint further alleges 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 is participating in the investigation.

On November 15, 2019, Rovi filed a motion for summary determination regarding importation. On November 29, 2019, Comcast filed a brief in opposition to Rovi's motion.

On March 26, 2020, the ALJ issued the subject ID (Order No. 36) granting Rovi’s motion for summary determination regarding importation. The ID relies on the Commission’s previous finding that Comcast is an “importer” under section 337 in two companion cases, *Certain Digital Video Receivers and Hardware and Software Components Thereof* (Inv. No. 337-TA-1001) and *Certain Digital Video Receivers and Related Hardware and Software Components* (Inv. No. 337-TA-1103). The U.S. Court of Appeals for the Federal Circuit affirmed the Commission’s final determination in the 1001 investigation, including affirmance of the Commission’s finding that Comcast is an importer under Section 337. *See Comcast Corp. v. ITC*, 951 F.3d 1301 (Fed. Cir. 2020). The ID finds that Comcast is an “importer” in this case because many of the accused products here are the same as those in the companion investigations, and also that Comcast is precluded from arguing to the contrary based on the Federal Circuit affirmance. The ID also finds, in the alternative, that Comcast is an importer under Section 337 based on the undisputed facts as to the degree and type of Comcast’s control and involvement with its suppliers.

On April 2, 2020, Comcast filed a petition for review. On April 9, 2020, Rovi filed a response in opposition to Comcast’s petition.

Having reviewed the record including the parties’ briefing, the Commission has determined not to review the subject ID.

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: April 27, 2020