

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN ELECTRONIC DEVICES,
INCLUDING STREAMING PLAYERS,
TELEVISIONS, SET TOP BOXES,
REMOTE CONTROLLERS, AND
COMPONENTS THEREOF**

Investigation No. 337-TA-1200

**NOTICE OF A COMMISSION DETERMINATION TO REVIEW AND REVERSE
AN INITIAL DETERMINATION GRANTING RESPONDENTS' MOTION FOR
SUMMARY DETERMINATION THAT THE COMPLAINANT LACKS STANDING
TO ASSERT U.S. PATENT NO. 10,593,196**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission ("Commission") has determined to review and reverse an initial determination ("ID") (Order No. 40) issued by the presiding administrative law judge ("ALJ") granting respondents' motion for summary determination that the complainant lacks standing to assert U.S. Patent No. 10,593,196 ("the '196 patent"). The Commission expects to issue its opinion in this matter shortly.

FOR FURTHER INFORMATION CONTACT: Carl P. Bretscher, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, telephone (202) 205-2382. 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 on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on May 22, 2020, based on a complaint filed by Universal Electronics, Inc. ("UEI") of Scottsdale, Arizona. 85 FR 31211-212 (May 22, 2020). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 ("Section 337"), in the importation into the United States, sale for importation, or sale in the United States after importation of certain electronic devices, including streaming players, televisions, set top boxes, remote controllers, and components thereof, by reason of infringement of one of more of the asserted claims of the '196 patent and U.S. Patent Nos. 7,589,642 ("the '642 patent"); 7,696,514 ("the '514 patent"); 9,911,325 ("the '325 patent"); 10,600,317 ("the '317 patent"); and 9,716,853 ("the '853 patent"). *Id.* The complaint also alleges that a domestic industry exists. *Id.*

The Commission’s notice of investigation names the following respondents: Roku Inc. of Los Gatos, California (“Roku”); TCL Electronics Holdings Ltd. of New Territories, Hong Kong; Shenzhen TCL New Technology Co. Ltd. of Shenzhen, China; TCL King Electrical Appliances Co. Ltd., Huizhou, China; TTE Technology Inc. of Corona, California; TCL Corp. of Huizhou City, China; TCL Moka Int’l Ltd. of New Territories, Hong Kong; TCL Overseas Marketing Ltd. of New Territories, Hong Kong; TCL Industries Holdings Co., Ltd. of New Territories, Hong Kong; and TCL Smart Device Co. of Bac Tan Uyen District, Vietnam (collectively, “the TCL Respondents”); Hisense Co. Ltd. of Qingdao, China; Hisense Electronics Manufacturing Co. of America Corp. of Suwanee, Georgia; Hisense Import & Export Co. Ltd. of Qingdao, China; Qingdao Hisense Electric Co., Ltd. of Qingdao, China; and Hisense International Co., Ltd. of Shen Wang, Hong Kong (collectively, “the Hisense Respondents”); Funai Electric Co., Ltd. of Osaka, Japan; Funai Corp. Inc. of Rutherford, New Jersey; and Funai Co., Ltd. of Nakhon Ratchasima, Thailand (collectively, “the Funai Respondents”) (all respondents are collectively referred to as “Respondents”). *Id.* The Office of Unfair Import Investigations is not participating in this investigation. *Id.*

On December 23, 2020, the Commission partially terminated the investigation due to withdrawal of the ’853 patent, claims 19 and 20 of the ’196 patent, and claims 14 and 20 of the ’642 patent. Order No. 27 (Dec. 2, 2020), *unreviewed by* Comm’n Notice (Dec. 23, 2020). The Commission subsequently terminated the investigation with respect to claim 20 of the ’514 patent. Order No. 32 (Dec. 21, 2020), *unreviewed by* Comm’n Notice (Jan. 5, 2021). On January 13, 2021, the Commission amended the notice of institution of the investigation to clarify that claims 2 and 4-5 of the ’196 patent are only domestic industry claims and are not being asserted against any respondent for infringement purposes. Order No. 33 (Dec. 29, 2020), *unreviewed by* Comm’n Notice (Jan. 13, 2021). On January 21, 2021, the Commission partially terminated the investigation due to withdrawal of all asserted claims of the ’317 patent, claim 6 of the ’514 patent, and claims 1, 3, 4, 6, 12, and 19 of the ’642 patent with respect to the Funai Respondents. Order No. 34 (Jan. 4, 2021), *unreviewed by* Comm’n Notice (Jan. 21, 2021). On February 19, 2021, the Commission partially terminated the investigation due to withdrawal of the ’325 patent and the ’514 patent; claims 1, 2, 4, 5, 7, 8, and 10 of the ’317 patent; and claim 25 of the ’642 patent against all Respondents. Order No. 44 (Feb. 2, 2021), *unreviewed by* Comm’n Notice (Feb. 19, 2021). The Commission also partially terminated the investigation due to withdrawal of claim 12 of the ’642 patent with respect to the TCL Respondents and the Hisense Respondents. *Id.*

On February 18, 2021, the Commission determined not to review an initial determination entering summary determination that claim 19 of the ’642 patent is practiced by the domestic industry products and infringed by the accused “Elk” series of products. Order No. 38 (Jan. 19, 2021), *unreviewed by* Comm’n Notice (Feb. 18, 2021). On February 24, 2021, the Commission determined not to review an initial determination entering summary determination that the technical prong of the domestic industry requirement is satisfied for claims 1-3, 5-8, and 16 of the ’325 patent. Order No. 41 (Jan. 25, 2021), *unreviewed by* Comm’n Notice (Feb. 24, 2021).

On December 30, 2020, Roku moved for summary determination that UEI lacks standing to assert the '196 patent. On January 11, 2021, UEI filed its opposition to Roku's motion.

On January 25, 2021, the ALJ issued the subject ID, granting summary determination that UEI lacks standing to assert the '196 patent. Order No. 40 (Jan. 25, 2021).

On February 1, 2021, UEI filed a petition for review of the subject ID. On February 8, 2021, Roku filed an opposition to UEI's petition for review. On February 10, 2021, UEI filed a motion for leave to file a reply brief in support of its petition for review. On February 12, 2021, Roku filed an opposition to UEI's motion.

Upon review of the subject ID, the parties' submissions, and the record, the Commission has determined to review the subject ID and to reverse the ID's finding that UEI lacks standing to assert the '196 patent in this investigation as legally erroneous. Specifically, Roku has failed to establish that UEI is barred from asserting the '196 patent in this investigation. The Commission has also determined to deny UEI's motion for leave to file a reply. The Commission expects to issue its opinion shortly.

The Commission vote for this determination took place on February 24, 2021.

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: February 24, 2021