

**UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.**

In the Matter of

**CERTAIN COMPUTER NETWORK
SECURITY EQUIPMENT AND
SYSTEMS, RELATED SOFTWARE,
COMPONENTS THEREOF, AND
PRODUCTS CONTAINING SAME**

Investigation No. 337-TA-1314

**NOTICE OF COMMISSION DETERMINATION TO EXTEND THE DATE FOR
WHETHER TO REVIEW A FINAL INITIAL DETERMINATION**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to extend the date by which it must determine whether to review a final initial determination (“Final ID”) issued by the presiding administrative law judge (“ALJ”) in the above-captioned investigation to December 5, 2023.

FOR FURTHER INFORMATION CONTACT: Robert J. Needham, 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 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: On May 24, 2022, the Commission instituted this investigation based on a complaint, as amended and supplemented, filed on behalf of Centripetal Networks, LLC of Reston, Virginia. 87 FR 31581-82 (May 24, 2022). The complaint alleged 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 computer network security equipment and systems, related software, components thereof, and products containing the same that infringe certain claims of U.S. Patent Nos. 9,264,370 (“the ’370 patent”); 10,193,917 (“the ’917 patent”); and 10,284,526 (“the ’526 patent”). *Id.* at 31581. The complaint also alleged that a domestic industry exists. *Id.*

The Commission's notice of investigation names Keysight Technologies, Inc. of Santa Rosa, California as the sole respondent. *Id.* The Office of Unfair Import Investigations is participating in this investigation. *Id.*

On January 20, 2023, the complainant provided notice that it changed its name to Centripetal Networks, LLC ("Centripetal"). Complainant's Notice of Corporate Name Change (Jan. 20, 2023). On March 6, 2023, the Commission granted the complainant's motion to amend the complainant and notice of the investigation to reflect the name change. Order No. 32 (Feb. 3, 2023), *unreviewed by Comm'n Notice* (Mar. 6, 2023).

The Commission previously terminated the investigation with respect to certain claims of the '370, '917, and '526 patents based on Centripetal's partial withdrawal of the complaint. Order No. 27 (Jan. 27, 2023), *unreviewed by Comm'n Notice* (Feb. 24, 2023); Order No. 39 (Feb. 27, 2023), *unreviewed by Comm'n Notice* (Mar. 29, 2023).

On September 26, 2022, the ALJ conducted a *Markman* hearing. On February 22, 2023, the ALJ issued a claim construction order. Order No. 37 (Feb. 22, 2023). The ALJ held an evidentiary hearing on March 1-3 and 6-7, 2023.

On August 8, 2023, the presiding administrative law judge issued a Final ID finding no violation of section 337. Specifically, the Final ID finds that: (1) with respect to the '370 patent, claims 22 and 43 are not infringed and are invalid for being directed to unpatentable subject matter under 35 U.S.C. 101, and the technical prong of the domestic industry requirement is not satisfied; (2) with respect to the '917 patent claims 11 and 20 are infringed and the technical prong of the domestic industry requirement is satisfied, but the asserted claims are invalid as obvious under 35 U.S.C. 103; and (3) with respect to the '526 patent, claims 1, 3, 11, 13, and 16 of the '526 patent are not infringed and are invalid as anticipated under 35 U.S.C. 102, but the technical prong of the domestic industry requirement is satisfied. Finally, the Final ID finds that Centripetal has satisfied the economic prong of the domestic industry requirement under Section 337(a)(3)(A) and (B) with respect to each of the asserted patents.

The ALJ recommended that, if the Commission were to find a violation of section 337, the Commission should issue a limited exclusion order and cease and desist order with respect to Keysight. The ALJ also recommended that the bond rate be set at a 100 percent of entered value of the products imported during the period of Presidential review.

On August 14, 2023, the Commission requested comments from the public and interested government agencies regarding any public interest issues raised by the ALJ's recommended determination on remedy and bonding. 88 FR 55067-68 (Aug. 14, 2023). The Commission received no comments from the public or government agencies. On September 7, 2023, Centripetal and Keysight provided comments on the public interest pursuant to Commission Rule 210.50(a)(4). 19 C.F.R. § 210.50(a)(4).

On August 23, 2023, Centripetal filed a petition for review challenging the Final

ID's findings that: (1) the '370 patent claims are not infringed or invalid for being directed to unpatentable subject matter, and that the technical prong of the domestic industry requirement is not satisfied as to that patent; (2) the '917 patent claims are invalid for obviousness; and (3) the '526 claims are not infringed and invalid for anticipation. On September 1, 2023, Keysight and OUII filed responses opposing the petition for review.

The Commission has determined to extend the date for its determination on whether to review the Final ID to December 5, 2023.

The Commission vote for this determination took place on November 30, 2023.

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', written in a cursive style.

Lisa R. Barton
Secretary to the Commission

Issued: November 30, 2023