

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

In the Matter of

**CERTAIN ICEMAKING MACHINES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-1369

**NOTICE OF A COMMISSION DETERMINATION TO REVIEW, AND ON
REVIEW TO SUPPLEMENT, AN INITIAL DETERMINATION GRANTING AN
UNOPPOSED MOTION FOR SUMMARY DETERMINATION THAT THE
DOMESTIC INDUSTRY REQUIREMENT IS SATISFIED AS TO ALL
ASSERTED PATENTS**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review, and on review to supplement the reasoning of, the presiding chief administrative law judge's ("CALJ") initial determination ("ID") (Order No. 16) granting an unopposed motion for summary determination that the domestic industry requirement is satisfied as to all the asserted patents in this investigation.

FOR FURTHER INFORMATION CONTACT: Benjamin S. Richards, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-5453. 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 August 16, 2023, the Commission instituted this investigation based on a complaint filed by Hoshizaki America, Inc. of Peachtree City, Georgia ("Complainant"). 88 FR 55721-22 (Aug. 16, 2023). The complaint alleges 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, or sale within the United States after importation of certain icemaking machines and components thereof by reason of the

infringement of one or more of claims 1-3, 6-8, and 11-20 of U.S. Patent No. 10,107,538; claims 1-4, 10-13, and 16 of U.S. Patent No. 10,113,785; and claims 1, 2, 5-9, and 11-14 of U.S. Patent No. 10,458,692. *Id.* at 5572. The Commission’s notice of investigation named as respondents Blue Air FSE LLC of Gardena, California; and Bluenix Co., Ltd. of Gyeonggi-do, Republic of Korea (collectively, “Respondents”). The Office of Unfair Import Investigations was also named as a party in this investigation. *Id.*

On March 5, 2024, Complainant moved for summary determination that it satisfies the domestic industry requirement of 19 U.S.C. 1337(a)(2)–(3). On March 15, 2024, Respondents filed a response opposing the motion. On March 20, 2024, Complainant moved for leave to file a reply in support of its motion and included the proposed reply with that filing. Thereafter, the parties met and conferred, and on March 21, 2024, Respondents filed a notice withdrawing their March 15th opposition filing. Accordingly, Complainant’s motion for summary determination became unopposed.

On April 25, 2024, the CALJ issued the subject ID, which granted Complainant’s unopposed motion. The CALJ also granted Complainant’s motion to file a reply on the same day. The ID found that “Hoshizaki is entitled to summary determination that it satisfies the domestic industry requirement of 19 U.S.C. [] 1337(a)(2)-(3).” ID at 7. In support of that finding, the ID found that “the undisputed facts demonstrate that Hoshizaki has employed and continues to employ significant labor in the United States to manufacture and support the domestic industry products.” ID at 7. The ID also found that “the undisputed facts demonstrate that representative domestic industry product, KM-520MAJ-SHOW, practices at least one claim of each of the asserted patents.” ID at 7–8. In making those findings, the ID relied on the chart of undisputed material facts submitted by Complainant with its motion. Specifically, given the unopposed nature of the motion and the ground rule governing this investigation, the ID found that all the material facts set forth in Hoshizaki’s chart of undisputed material facts, EDIS Doc. ID 815542, Attachment ID 2128604, are deemed admitted.” ID at 7 (citing Ground Rules, Order No. 2 at 9). No petitions for review of the ID were filed.

The Commission has determined to review the subject ID. On review, the Commission finds that Complainant has established the domestic industry requirement under section 337(a)(3)(B) and supplements the ID’s economic prong findings as follows. The undisputed facts show that Complainant’s production and support workers producing its DI products are all located in the United States. Further, Hoshizaki’s manufacturing labor has more than doubled from 2019 through April 2023, including due to transferred production of some DI products from overseas to its production plant in Peachtree, Georgia. The Commission thus finds Complainant’s labor investments to be quantitatively significant.¹ Complainant has shown that it satisfies the domestic industry requirement of 19 U.S.C. 1337(a)(2)–(3) for all three asserted patents in this investigation.

The Commission vote for this determination took place on May 28, 2024.

¹ Commissioner Kearns also bases his finding on the record evidence that Hoshizaki’s domestic labor activities contribute significant value to the DI products.

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', enclosed within a large, loopy circular flourish.

Lisa R. Barton
Secretary to the Commission

Issued: May 29, 2024