

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

In the Matter of

**CERTAIN DVD PLAYERS AND
RECORDERS AND CERTAIN
PRODUCTS CONTAINING SAME**

Investigation No. 337-TA-603

**NOTICE OF COMMISSION DECISION NOT TO REVIEW TWO INITIAL
DETERMINATIONS TERMINATING THE INVESTIGATION AS TO
THE TONIC AND STARLIGHT RESPONDENTS BASED ON LICENSE
AGREEMENTS; REQUEST FOR WRITTEN SUBMISSIONS ON REMEDY,
THE PUBLIC INTEREST, AND BONDING**

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 two initial determinations (“IDs”) (Order Nos. 16 and 17) issued by the presiding administrative law judge (“ALJ”) granting motions to terminate the investigation as to the “Tonic respondents,” i.e.: Dongguan Tonic Electronics Co.; Dongguan Xin Lian Digital Technology Co.; Tonic Digital Products Ltd.; Tonic DVB Marketing Ltd.; Tonic Electronics Ltd.; Tonic Industries Holdings Ltd.; Tonic Technology (HK) Ltd.; Tonic Technology (Shenzen) Ltd.; and Tonic Trading Development Ltd.; and the “Starlight respondents,” i.e.: Star Light Electronics Co.; Starlight International Holdings Ltd.; and Starlight Marketing (HK) Ltd. All respondents have been terminated from the investigation. Because the “GVG respondents,” i.e., Dongguan GVG Digital Technology Ltd. and GVG Digital Technology Holdings Ltd., were found in default, the Commission requests written submission, according to the schedule set forth below, on remedy, public interest, and bonding with respect to the defaulting respondents.

FOR FURTHER INFORMATION CONTACT: Paul M. Bartkowski, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-5432. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the

Commission's electronic docket (EDIS) at <http://edis.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: This investigation was instituted on May 8, 2007, based on a complaint filed by Toshiba Corporation of Tokyo, Japan and Toshiba America Consumer Products, L.L.C., of Wayne, New Jersey (collectively, "Toshiba"). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain DVD players and recorders and certain products containing the same by reason of infringement of certain claims of U.S. Patent Nos.: 5,587,991; 5,870,523; and 5,956,306.

On October 5, 2007, Toshiba and the Tonic respondents filed a joint motion for partial termination based upon a license agreement with the Tonic respondents and, on the same day, Toshiba and the Starlight respondents filed for partial termination based upon a license to the Starlight respondents.

On November 15, 2007, finding no evidence that termination of the investigation as to the Tonic or Starlight respondents would prejudice the public interest, the ALJ granted the joint motions by separate IDs. No petitions for review were filed. The Commission has determined not to review the subject IDs. The Tonic and Starlight respondents were the last remaining respondents in this investigation.

The GVG respondents were found in default in a prior ID, which was not reviewed by the Commission. Toshiba indicated, in a declaration filed on October 18, 2007, that it seeks a limited exclusion order and cease-and-desist order against the GVG respondents. Section 337(g)(1) and Commission Rule 210.16(c) authorize the Commission to order relief against a respondent found in default unless, after consideration of the public-interest factors, it finds that such relief should not issue.

In conjunction with the final disposition of this investigation, therefore, the Commission may: (1) issue an order that could result in the exclusion of articles manufactured or imported by any or all of the defaulting respondents; and/or (2) issue one or more cease-and-desist orders that could result in any or all of the defaulting respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, *see In the Matter of Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843 (December 1994) (Commission Opinion).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. *See* Presidential Memorandum of July 21, 2005, 70 *Fed. Reg.* 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

WRITTEN SUBMISSIONS: The parties to the investigation, interested government agencies, and any other interested parties, are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Complainants and the Commission investigative attorney are also requested to submit proposed remedial orders for the Commission's consideration. Complainants are further requested to state the dates that the patents expire and the HTSUS numbers under which the accused products are imported. The written submissions and proposed remedial orders must be filed no later than close of business on January 4, 2008. Reply submissions must be filed no later than the close of business on January 14, 2008. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document and 12 true copies thereof with the Office of the Secretary on or before the aforementioned deadlines. Any person desiring to submit a document to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 C.F.R. § 210.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

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 section 210.16 and 210.42-46 of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.16; 210.42-46).

By order of the Commission.

/s/

Marilyn R. Abbott
Secretary to the Commission

Issued: December 17, 2007