

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN PRODUCTS CONTAINING
INTERACTIVE PROGRAM GUIDE
AND PARENTAL GUIDE AND
PARENTAL CONTROLS
TECHNOLOGY**

Investigation No. 337-TA-820

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION GRANTING-IN-PART RESPONDENT'S MOTION FOR
SUMMARY DETERMINATION OF INVALIDITY OF CERTAIN ASSERTED CLAIMS
OF U.S. PATENT NOS. 6,701,523; 7,493,643; AND RE41,993**

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 the presiding administrative law judge's ("ALJ") initial determination ("ID") (Order No. 45) granting-in-part respondent's motion for summary determination of invalidity of certain asserted claims of U.S. Patent Nos. 6,701,523 ("the '523 patent"); 7,493,643 ("the '643 patent"); and RE41,993 ("the '993 patent") in the above captioned investigation.

FOR FURTHER INFORMATION CONTACT: Megan M. Valentine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-2301. 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: The Commission instituted this investigation on December 21, 2011, based on a complaint filed by Rovi Corporation of Santa Clara, California; Rovi Guides, Inc. (f/k/a/ Gemstar-TV Guide International Inc.) of Santa Clara, California; United Video Properties, Inc. of Santa Clara, California; Gemstar Development Corporation of Santa

Clara, California; and Index Systems, Inc. of Tortola, the British Virgin Islands (collectively, “Rovi”). 76 *Fed. Reg.* 79214-5 (Apr. 27, 2011). The complaint alleged violations of Section 337 of the Tariff Act of 1930, as amended, 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 products containing interactive program guide and parental controls technology by reason of infringement of certain claims of U.S. Patent Nos. 7,493,643; RE41,993 (“the ’993 patent”); 6,701,523; and 7,047,547. The complaint further alleged that an industry in the United States exists as required by subsection (a)(2) of section 337. The notice of investigation named Vizio, Inc. of Irvine, California (“Vizio”); Haier Group Corp. of Shandong, China (“HGC”); and Haier America Trading LLC of New York, New York (“Haier America”) as respondents. The Office of Unfair Import Investigations was also named as a party, but later decided not to participate in the investigation under the Commission’s *Supplement to the Strategic Human Capital Plan 2009-2013*. Commission Investigative Staff’s Notice of Nonparticipation (Jan. 6, 2012). The Commission later terminated the investigation as to Haier America and HGC based on consent orders. Notice (June 18, 2012) (Order No. 18); Notice (June 18, 2012) (Order No. 19).

On October 12, 2012, Vizio filed a motion for summary determination of certain claims of the ’523 patent, the ’643 patent, and the ’993 patent based on the claims the ALJ found to be indefinite in his Markman Order. *See* Order No. 35 (Sept. 7, 2012). On October 24, 2012, Rovi filed an opposition to Vizio’s motion.

On November 14, 2012, the ALJ issued the subject ID, granting-in-part Vizio’s motion as to those asserted claims of the patents at issue that he found to be indefinite. On November 27, 2012, Rovi untimely filed a petition for review of the subject ID. On November 29, 2012, after receiving a letter of explanation from Rovi’s counsel, the Commission determined not to accept the late filing. Also on November 29, 2012, counsel for Vizio submitted a letter to the Secretary requesting that the Commission decline to accept Rovi’s attempted explanation for its late filing.

On December 13, 2012, the Commission extended the time for determining whether to review the subject ID to January 9, 2012. *See* Notice of Commission Decision to Extend the Date for Determining Whether to Review an Initial Determination (Dec. 13, 2012).

On January 4, 2013, the Commission determined not to review an ID (Order No. 52) granting Vizio’s unopposed motion to terminate the ’993 patent from the investigation, thereby rendering moot the subject ID’s determination regarding the ’993 patent. Notice (Jan. 4, 2012).

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

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
Acting Secretary to the Commission

Issued: January 9, 2013