

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN OPTICAL DISC DRIVES,
COMPONENTS THEREOF, AND
PRODUCTS CONTAINING THE SAME**

Inv. No. 337-TA-897

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION TERMINATING THE INVESTIGATION IN PART AS TO
RESPONDENTS PANASONIC AND NINTENDO**

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. 128) terminating the above-captioned investigation in part as to Nintendo Co., Ltd. of Kyoto, Japan and Nintendo of America, Inc. of Redmond, Washington (collectively, "Nintendo"); and Panasonic Corp. of Osaka, Japan and Panasonic Corporation of North America of Secaucus, New Jersey (collectively, "Panasonic").

FOR FURTHER INFORMATION: Megan M. Valentine, 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 (<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 October 25, 2013, based on a Complaint filed by Optical, as supplemented. 78 *Fed. Reg.* 64009-10 (Oct. 25, 2013). The Complaint alleges 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 optical disc drives, components thereof, and products containing the same by reason of infringement of certain claims of U.S. Patent Nos. 6,904,007; 7,196,979; 8,416,651 (collectively, "the Wild Patents"); and RE40,927;

RE42,913; and RE43,681 (collectively, “the Kadlec Patents”). The Complaint further alleges the existence of a domestic industry. The Commission’s Notice of Investigation named numerous respondents, including Nintendo and Panasonic. The Office of Unfair Import Investigations was not named as a party to the investigation.

The Commission later terminated the investigation as to the application of numerous claims of the asserted patents to various named respondents. *See* Notice of Commission Determination Not to Review an Initial Determination Granting Complainant’s Motions to Partially Terminate the Investigation as to Certain Patents (Aug. 8, 2014). The Commission also later terminated the investigation with respect to Samsung based on a settlement agreement. *See* Notice of Commission Determination to Grant a Joint Motion to Terminate the Investigation as to Respondents Samsung Electronics Co., Ltd. Samsung Electronics America, Inc. on the Basis of a Settlement Agreement (Sept. 2, 2014).

On October 20, 2014, the ALJ issued an ID (Order No. 113) terminating the investigation based on Optical Devices’ lack of prudential standing as to the Wild Patents and the Kadlec Patents. Order No. 113 (Oct. 20, 2011). On December 4, 2014, the Commission determined to review Order No. 113 in part, and on review, to modify-in-part, vacate-in-part, and remand the investigation to the ALJ with respect to the Kadlec Patents. Commission Notice (Dec. 4, 2014).

On February 25, 2015, Optical and Panasonic filed a joint motion to terminate the investigation as to Panasonic and Nintendo based on a settlement agreement between Optical and Panasonic. The motion stated that Nintendo did not oppose the motion, and no other parties filed a response to the motion.

On March 10, 2015, the ALJ issued the subject ID granting pursuant to section 210.21(b) of the Commission’s Rules of Practice and Procedure (19 C.F.R. § 210.21(b)) the joint motion to terminate the investigation in part as to Panasonic and Nintendo. No petitions for review were filed.

The Commission has determined not to review the 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 Part 210 of the Commission’s Rules of Practice and Procedure (19 C.F.R. Part 210).

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: March 30, 2015