

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN THREE-DIMENSIONAL
CINEMA SYSTEMS AND
COMPONENTS THEREOF**

Investigation No. 337-TA-939

NOTICE OF COMMISSION DETERMINATION TO EXTEND THE TARGET DATE

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 target date for completion of the above-captioned investigation until June 24, 2016.

FOR FURTHER INFORMATION CONTACT: Lucy Grace D. Noyola, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-3438. 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 December 12, 2014, based on a complaint filed by RealD, Inc. of Beverly Hills, California ("RealD"). 79 *Fed. Reg.* 73902-03 (Dec. 12, 2014). 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 three-dimensional cinema systems, and components thereof, that infringe certain claims of U.S. Patent Nos. 7,905,602 ("the '602 patent"); 7,857,455; 7,959,296; and 8,220,934 ("the '934 patent"). *Id.* at 73902. The notice of investigation named as respondents MasterImage 3D, Inc. of Sherman Oaks, California, and MasterImage 3D Asia, LLC of Seoul, Republic of Korea ("MasterImage"). *Id.* at 73903. The Office of Unfair Import Investigations was not named as a party to the investigation.

On July 23, 2015, the Commission later terminated the investigation as to various of the asserted claims and the '602 patent in its entirety. Notice (July 23, 2015) (determining not to review Order No. 6 (July 2, 2015)); Notice (Aug. 20, 2015) (determining not to review Order No. 7 (Aug. 3, 2015)).

On September 25, 2015, the Commission determined on summary determination that RealD satisfied the economic prong of the domestic industry requirement through its significant investment in plant, significant investment in labor, and substantial investment in engineering, research, and development. Notice (Sept. 25, 2015) (determining to review in part Order No. 9 (Aug. 20, 2015)). The Commission, however, reversed the presiding administrative law judge's ("ALJ") summary determination with respect to RealD's investment in equipment. *Id.*

On December 16, 2015, the ALJ issued a final initial determination ("ID") finding a violation of section 337 with respect to the remaining asserted patents. The ALJ found that the asserted claims of each patent are infringed and not invalid or unenforceable. The ALJ found that the technical prong of the domestic industry requirement was satisfied for the asserted patents. The ALJ also issued a Recommended Determination on Remedy and Bonding ("RD"), recommending that a limited exclusion order and cease and desist orders should issue and that a bond of 100 percent should be imposed during the period of presidential review.

On December 29, 2015, MasterImage filed a petition for review challenging various findings in the final ID. On January 6, 2016, RealD filed a response to MasterImage's petition. On January 15, 2016, and January 19, 2016, MasterImage and RealD respectively filed post-RD statements on the public interest under Commission Rule 210.50(a)(4). The Commission did not receive any post-RD public interest comments from the public in response to the Commission notice issued on December 22, 2015. 80 *Fed. Reg.* 80795 (Dec. 28, 2015).

On February 16, 2016, the Commission determined to review the final ID in part and requested additional briefing from the parties on certain issues. 81 *Fed. Reg.* at 8744-45. The Commission also solicited briefing from the parties and the public on the issues of remedy, the public interest, and bonding. *Id.*

On March 1, 2016, the parties filed initial written submissions addressing the Commission's questions and the issues of remedy, the public interest, and bonding. On March 11, 2016, the parties filed response briefs. No comments were received from the public.

On April 18, 2016, the Commission requested additional briefing on the effect of a Final Written Decision issued by the Patent Trial and Appeal Board of the U.S. Patent and Trademark Office on April 14, 2016, finding certain claims of the '934 patent unpatentable on the Commission's final determination. 81 *Fed. Reg.* 23749-50 (Apr. 22, 2016). On April 26, 2016, the parties filed initial written submissions addressing the Commission's question. On May 3, 2016, the parties filed response briefs.

The Commission has determined to extend the target date for completion of the investigation until June 24, 2016.

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.

A handwritten signature in black ink, appearing to read "Lisa R. Barton". The signature is stylized and cursive.

Lisa R. Barton
Secretary to the Commission

Issued: May 23, 2016