

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

**In the Matter of**

**CERTAIN MOVABLE BARRIER  
OPERATOR SYSTEMS AND  
COMPONENTS THEREOF**

Investigation No. 337-TA-1118  
(Remand)

**NOTICE OF A COMMISSION REQUEST FOR WRITTEN SUBMISSIONS  
PURSUANT TO A COURT REMAND**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission (the “Commission”) has determined to request written submissions following a remand from the U.S. Court of Appeals for the Federal Circuit (“Federal Circuit” or “Court”).

**FOR FURTHER INFORMATION CONTACT:** Carl P. Bretscher, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-2382. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission’s electronic docket system (“EDIS”) at <https://edis.usitc.gov>. For help accessing EDIS, please email [EDIS3Help@usitc.gov](mailto: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:** The Commission instituted this investigation on June 11, 2018, based on a complaint, as supplemented, filed by The Chamberlain Group, Inc. (“Chamberlain”) of Oak Brook, Illinois. 83 FR 27020-21 (June 11, 2018). The complaint alleges a violation of section 337 the Tariff Act, as amended, 19 U.S.C. 1337, by way of the importation, sale for importation, or sale in the United States after importation of certain movable barrier operator systems that allegedly infringe one or more of the asserted claims of U.S. Patent Nos. 7,755,223 (“the ’223 patent”); 8,587,404 (“the ’404 patent”); and 6,741,052 (“the ’052 patent”). *Id.* The Commission’s notice of investigation named Nortek Security & Control, LLC of Carlsbad, California; Nortek, Inc. of Providence, Rhode Island; and GTO Access Systems, LLC of Tallahassee, Florida (collectively, “Nortek”) as respondents. *Id.* The complaint further alleged the existence of a domestic industry. The Office of Unfair Import Investigations was not named as a party to this investigation. *See id.*

On April 22, 2020, the Commission issued a final determination adopting the presiding administrative law judge’s (“ALJ”) finding no violation with respect to the ’404 and ’052 patents, but remanding the investigation to the ALJ for further consideration of the economic

prong of the domestic industry requirement with respect to the '223 patent. Comm'n Notice at 3 (April 22, 2020). On December 3, 2020, the Commission completed its review regarding the '223 patent and concluded that Nortek violated section 337 by way of infringing claims 1 and 21 of the '223 patent. Comm'n Notice at 3 (Dec. 3, 2020). The Commission issued a limited exclusion order and cease and desist order against each of the Nortek respondents with respect to those claims. *Id.*

Chamberlain timely appealed the Commission's April 22, 2020 determination of no violation to the Federal Circuit, and Nortek timely appealed the Commission's December 3, 2020 determination of violation. The Court consolidated the separate appeals. While the appeals were pending, the appeal became moot with respect to the '052 patent due to the expiration of the patent.

On April 27, 2023, the Federal Circuit issued its opinion in the consolidated appeals. *The Chamberlain Group, Inc. v. ITC*, Appeal Nos. 2020-1965, 2021-1829, 2023 WL 3115579 (Fed. Cir. April 27, 2023). The Federal Circuit affirmed the Commission's violation determination with respect to the '223 patent, but vacated its determination of no violation with respect to the '404 patent due to a change in claim construction. *Id.* The Federal Circuit issued its mandate on July 19, 2023, returning jurisdiction to the Commission for the remanded issues.

Pursuant to the Court's remand, the Commission requests written submissions from the parties to address the specific proceedings to be conducted on remand.

**WRITTEN SUBMISSIONS:** The parties to the investigation are requested to file written submissions regarding what further proceedings must be conducted to comply with the June 14, 2023 judgment of the U.S. Court of Appeals for the Federal Circuit in *The Chamberlain Group, Inc. v. ITC*, Appeal Nos. 2020-1965, 2021-1829, 2023 WL 3993195 (Fed. Cir. June 14, 2023).

Written submissions must be filed no later than the close of business on **August 14, 2023**. Reply submissions must be filed no later than the close of business on **August 21, 2023**. No further submissions on these issues will be permitted unless ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. The Commission's paper filing requirements in 19 CFR 210.4(f) are currently waived. 85 FR 15798 (March 19, 2020). Submissions should refer to the investigation number (Inv. No. 337-TA-1118) in a prominent place on the cover page or the first page. (See Handbook for Electronic Filing Procedures, [https://www.usitc.gov/documents/handbook\\_on\\_filing\\_procedures.pdf](https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf)). Persons with questions regarding filing should contact the Secretary at (202) 205-2000.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment by marking each document with a header indicating that the document contains confidential information. This marking will be deemed to satisfy the request procedure set forth in Rules 201.6(b) and 210.5(e)(2) (19 CFR 201.6(b) & 210.5(e)(2)). Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing. All information, including confidential business information and documents

for which confidential treatment is properly sought, submitted to the Commission for purposes of this investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection on EDIS.

The Commission voted to approve this determination on August 4, 2023.

The authority for the Commission's determinations 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 'LRB', is positioned above the printed name of the Secretary.

Lisa R. Barton  
Secretary to the Commission

Issued: August 4, 2023