

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN EARPIECE DEVICES
AND COMPONENTS THEREOF**

**Investigation No. 337-TA-1121
(Advisory Opinion Proceeding)**

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW
AN INITIAL DETERMINATION GRANTING A JOINT MOTION TO TERMINATE
THE ADVISORY OPINION PROCEEDING BASED ON SETTLEMENT;
TERMINATION OF THE ADVISORY OPINION PROCEEDING**

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. 6), granting a joint motion to terminate the advisory opinion proceeding based on settlement. The advisory opinion proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Cathy Chen, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, D.C. 20436, telephone 202-205-2392. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email 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 on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted the original investigation on June 29, 2018, based on a complaint filed on behalf of Bose Corporation ("Bose") of Framingham, Massachusetts. 83 FR 30,776 (Jun. 29, 2018). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain earpiece devices and components thereof by reason of infringement of one or more claims of U.S. Patent Nos. 9,036,852 ("the '852 patent"); 9,036,853 ("the '853 patent"); 9,042,590 ("the '590 patent"); 8,249,287 ("the '287 patent"); 8,311,253 ("the '253 patent"); and 9,398,364 ("the '364 patent"). The notice of investigation named fourteen respondents. The Office of Unfair Import Investigations was also named as a party in the original investigation.

On October 31, 2019, the Commission issued a general exclusion order (“GEO”), a limited exclusion order (“LEO”), and cease and desist orders with respect to certain claims of the asserted patents other than the ’364 patent. 84 FR 59838-840 (Nov. 6, 2019). The GEO prohibits the unlicensed importation of certain earpiece devices and components thereof that infringe claims 1 and 7 of the ’852 patent; claims 1 and 8 of the ’853 patent; claims 1 and 6 of the ’590 patent; and claims 1, 7, and 8 of the ’287 patent. The LEO covers the ’253 patent. The Commission also imposed a bond in the amount of one hundred percent (100%) of the entered value of the imported articles during the period of Presidential review. The Commission remanded certain issues to the ALJ and thereafter the ’364 patent was withdrawn from the investigation and the investigation was terminated in its entirety. 84 FR 72382-383 (Dec. 31, 2019).

On February 4, 2022, Fantasia Trading, LLC (“Fantasia”), the importer of record, filed a request for an advisory opinion that Anker’s Soundcore Liberty 2 Pro (“A3909”), Soundcore Liberty Neo (“A3911”), and Soundcore Life Dot 2 (“A3922”) products (collectively, the “Anker Earphones”) do not infringe claims 1 and 7 of the ’852 patent; claims 1 and 8 of the ’853 patent; claims 1 and 6 of the ’590 patent; and claims 1, 7, and 8 of the ’287 patent, and thus are not covered by the GEO issued in this investigation.

On March 8, 2022, the Commission determined to institute an advisory opinion proceeding under Commission Rule 210.79 to ascertain whether the Anker Earphones infringe claims 1 and 7 of the ’852 patent; claims 1 and 8 of the ’853 patent; claims 1 and 6 of the ’590 patent; and claims 1, 7, and 8 of the ’287 patent, and are covered by the GEO issued in this investigation. 87 FR 14287 (Mar. 14, 2022). The Commission further determined to refer the matter to the Chief ALJ for assignment to an ALJ for appropriate proceedings and to issue an initial advisory opinion (“IAO”) at the earliest practicable time, preferably within 120 days of institution, but no later than 7 months after institution. The ALJ was directed to set a target date at two months following the date of issuance of the IAO. The following entities were named as parties to the proceeding: (1) Bose; and (2) Fantasia.

On July 1, 2022, Fantasia and Bose filed a joint motion to terminate the advisory opinion proceeding based on a settlement agreement. ID at 1. The joint motion attached redacted public and confidential versions of the settlement agreement. *Id.* at 3.

On July 14, 2022, the ALJ issued the subject ID (Order No. 6), granting the joint motion to terminate the advisory opinion proceeding. The ID found that the motion to terminate complies with Commission Rule 210.21(a), 19 CFR 210.21(a), and there is no evidence that terminating this investigation based on the settlement agreement would be contrary to the public interest. *Id.* at 2-4. No petition for review of the ID was filed.

The Commission has determined not to review the subject ID. The advisory opinion proceeding is terminated.

The Commission vote for this determination took place on August 11, 2022.

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 CFR Part 210.

By order of the Commission.

A handwritten signature in black ink, appearing to read "Katherine M. Hiner". The signature is written in a cursive style with a large initial "K".

Katherine M. Hiner
Acting Secretary to the Commission

Issued: August 11, 2022