

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN SMART THERMOSTATS, LOAD
CONTROL SWITCHES, AND
COMPONENTS THEREOF**

Investigation No. 337-TA-1277

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION GRANTING AN UNOPPOSED MOTION TO AMEND THE
COMPLAINT AND NOTICE OF INVESTIGATION AND TO TERMINATE THE
INVESTIGATION AS TO A RESPONDENT AND CERTAIN PATENT CLAIMS**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (“Commission”) has determined not to review an initial determination (“ID”) (Order No. 12) of the presiding administrative law judge (“ALJ”) granting an unopposed motion by Complainant to (1) amend the complaint and notice of investigation to substitute new respondent Ademco Inc. of Melville, New York (“Ademco”) for respondent Resideo Technologies, Inc. of Austin, Texas (“Resideo Technologies”) and (2) to terminate the investigation as to respondent Itron Distributed Energy Management, Inc. of Liberty Lake, Washington (“Itron Distributed”); claim 21 of U.S. Patent No. 8,805,552 (“the ’552 patent”); claims 5, 14, and 17 of U.S. Patent No. 9,678,522 (“the ’522 patent”); claims 5, 13, and 16 of U.S. Patent No. 10,394,268 (“the ’268 patent”); and claims 8 and 9 of U.S. Patent No. 10,396,592 (“the ’592 patent”) based upon withdrawal of the allegations in the complaint.

FOR FURTHER INFORMATION CONTACT: Panyin A. Hughes, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3179. 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, telephone (202) 205-1810.

SUPPLEMENTARY INFORMATION: On September 2, 2021, the Commission instituted this investigation based on a complaint filed by Causam Enterprises, Inc. (“Causam”) of Raleigh, North Carolina. 86 FR 49345-46 (Sept. 2, 2021). The complaint alleged violations of section 337 based on the importation into the United States, the sale for importation, or the sale within the United States after importation of certain smart thermostats, load control switches, and

components thereof by reason of infringement of one or more of claims 1–9, 16, 19–21, 23–28, and 30 of the '552 patent; claims 1–8, 10, 13–17, 19–23, and 25–29 of the '522 patent; claims 1–11, 13–16, 18, and 19 of the '268 patent; and claims 1, 2, 8, 9, 11, 13, 14, and 17 of the '592 patent. *Id.* The Commission's notice of investigation named the following nine entities as respondents: Alarm.com Holdings, Inc. of Tysons, Virginia; Alarm.com Inc. of Tysons, Virginia; Ecobee, Inc. of Toronto, Ontario, Canada; EnergyHub, Inc. of Brooklyn, New York; Itron, Inc. of Liberty Lake, Washington; Itron Distributed; Resideo Smart Homes Technology (Tianjin) of Tianjin, China; Resideo Technologies; and Xylem Inc., of Rye Brook, New York ("Xylem"). The Office of Unfair Import Investigations was not named as a party in this investigation. *Id.*

On December 10, 2021, the ALJ issued Order No. 7 terminating the investigation as to Xylem. Order No. 7 (Dec. 10, 2021), *unreviewed by Comm'n Notice* (Jan. 10, 2022).

On February 24, 2022, Causam moved pursuant to 19 CFR 210.14(b) and 210.21(a), to (1) amend the Complaint and Notice of Investigation to add Proposed Respondent Ademco and to withdraw the Complaint as to Respondent Resideo Technologies and (2) to terminate the investigation as to respondent Itron Distributed; claim 21 of the '552 patent; claims 5, 14, and 17 of the '522 patent; claims 5, 13, and 16 of the '268 patent; and claims 8 and 9 of the '592 patent based upon withdrawal of the relevant allegations in the complaint.

On April 23, 2022, the ALJ issued the subject ID (Order No 12) granting the motion. The ID observed that Commission Rule 210.14(b) provides that "[a]fter an investigation has been instituted, the complaint or notice of investigation may be amended only by leave of the Commission for good cause shown and upon such conditions as are necessary to avoid prejudicing the public interest and the rights of the parties to the investigation." ID at 1. The ID found that good cause exists to amend the complaint and notice of investigation to substitute Ademco for Resideo Technologies, a related company, and that this amendment would not prejudice the public interest or the rights of the parties to the investigation. *Id.* at 2.

Regarding the partial termination of the investigation, the ID noted that Commission Rule 210.21(a)(1) provides that "[a]ny party may move at any time prior to the issuance of an initial determination on violation . . . for an order to terminate an investigation in whole or in part as to any or all respondents, on the basis of withdrawal of the complaint or certain allegations contained therein" 19 CFR 210.21(a)(1). The ID noted that Itron Distributed merged with Itron, Inc. in 2017 and is therefore no longer in existence. ID at 3. The ID found that in compliance with 19 CFR 210.21(a)(1), Causam states that "there are no other agreements, written or oral, express or implied between Causam and Itron Distributed Energy Management, Inc. concerning the subject matter of the investigation." *Id.* at 4. The ID further found that "there are no extraordinary circumstances that warrant denying the motion." *Id.* No one petitioned for review of the subject ID.

The Commission has determined not to review the subject ID. Ademco is hereby named as a respondent in the investigation. The investigation is hereby terminated as to Resideo Technologies; Itron Distributed; claim 21 of the '552 patent; claims 5, 14, and 17 of the '522 patent; claims 5, 13, and 16 of the '268 patent and claims 8 and 9 of the '592 patent.

The Commission vote for this determination took place on May 17, 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.



Lisa R. Barton
Secretary to the Commission

Issued: May 17, 2022