

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN VIDEO PROCESSING
DEVICES, COMPONENTS THEREOF,
AND DIGITAL SMART TELEVISIONS
CONTAINING THE SAME II**

Investigation No. 337-TA-1297

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION GRANTING A MOTION TO INTERVENE OF AMAZON.COM,
INC.**

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 an initial determination (“ID”) (Order No. 9) issued by the presiding administrative law judge (“ALJ”) on February 25, 2022, granting a motion to intervene of Amazon.com, Inc. (“Amazon”).

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., 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: On February 3, 2022, the Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based on a complaint filed by DivX, LLC of San Diego, California (“DivX”). 87 FR 6200-01 (Feb. 3, 2022). The complaint alleged a violation of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain video processing devices, components thereof, and digital smart televisions containing the same by reason of infringement of certain claims of U.S. Patent Nos. 8,832,297 and 8,472,792. The complaint also alleged the existence of a domestic industry. The notice of investigation named as respondents: TCL Technology Group Corporation of Huizhou, Guangdong, China; TCL Electronics Holdings Limited of Shenzhen, Guangdong, China; TTE Technology, Inc. of

Shenzhen, Guangdong, China; TCL King Electrical Appliances (Huizhou) Co. Ltd. of Huizhou, Guangdong, China; TCL MOKA International Limited of Sha Tin, New Territories, Hong Kong; and TCL Smart Device (Vietnam) Co., Ltd. of Tan Binh Commune, Bae Tan Uyen District, Binh Duong Province, Vietnam (collectively, “TCL”). *Id.* at 6201. The Commission’s Office of Unfair Import Investigations was not named as a party in this investigation. *Id.*

On February 11, 2022, Amazon moved pursuant to 19 CFR 210.19 to intervene in this investigation. Respondents TCL did not oppose. Order No. 9, at 1 (Feb. 25, 2022). While complainant DivX did not oppose Amazon’s requested relief, and “does not otherwise plan to file a response to the motion, it (i) takes no position as to whether it is more appropriate for Amazon to intervene in this Investigation as an intervenor or as a respondent, and reserves all rights, and (ii) makes no representations regarding TCL’s knowledge of Amazon technology.” *Id.* (quoting Mot. at 1).

Amazon requests that it be permitted to intervene in this investigation as an intervenor “with full participation rights and obligations with respect to the issues of infringement/non-infringement, validity/invalidity, any related subsidiary issues (*e.g.*, claim construction), any other issue directed to or otherwise involving Amazon’s technology, including reasonable discovery of the foregoing (subject to Amazon’s objections), such as responding to discovery requests, producing corporate designees for deposition and hearing testimony, and being subject to motions to compel to the same extent as any of the Respondents.” *Id.* at 1-2 (quoting Mot. at 1). Amazon did not ask to be accorded respondent status. *Id.* at 2 (citing Mem. at 2-10).

Amazon explains that DivX accuses certain TCL products of infringing the asserted patents “at least in part because they use and incorporate Amazon technology—primarily, Amazon’s Prime Video.” *Id.* (quoting Mem. at 8). Amazon therefore contends that it has a “substantial interest in this investigation with respect to Prime Video, and TCL’s interests are not only centered on their own devices, but TCL also lacks the knowledge and information to be able to adequately represent Amazon’s interest with respect to Prime Video and any other Amazon technologies.” *Id.* (quoting Mem. at 7).

On February 25, 2022, the ALJ issued the subject ID, granting Amazon’s motion. The ID found that there is no dispute that Amazon has an interest in infringement and invalidity issues regarding the asserted patents, that Amazon’s interests are not adequately protected by TCL, and that intervention has been granted in similar circumstances in previous investigations. *Id.* at 2-3 (citing *Certain Communications or Computing Devices and Components Thereof*, Inv. No. 337-TA-925, Order No. 6 at 4 (Sept. 9, 2014) (granting Google’s motion to intervene), *unreviewed by* Comm’n Notice (Oct. 10, 2014)). The ID further found that there is also no dispute that Amazon’s motion was timely filed, having been filed only days after the institution of the investigation. *Id.* at 3. The ID also found that no party claims any undue prejudice from Amazon’s intervention, and that there is no opposition to Amazon’s intervention in this investigation. *Id.* The ID found that, therefore, Amazon’s participation will facilitate discovery and aid the Commission in resolving the parties’ dispute.

On March 3, 2022, DivX, TCL, and Amazon filed a letter with the Commission requesting an expedited determination on whether to review the subject ID and indicating that none of the parties would petition for review of the ID.

The Commission has determined not to review the ID. Amazon's intervention as intervenor in this investigation is granted.

The Commission vote for this determination took place on March 18, 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: March 18, 2022