

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN AUDIO PLAYERS AND
COMPONENTS THEREOF (I)**

Investigation No. 337-TA-1329

**NOTICE OF A COMMISSION DETERMINATION GRANTING COMPLAINANT'S
MOTION FOR RECONSIDERATION OF A COMMISSION DETERMINATION OF
APRIL 8, 2025; VACATING SAID PREVIOUS DETERMINATION; REOPENING SAID
INVESTIGATION; AND SETTING A BRIEFING SCHEDULE FOR COMPLAINANT'S
PETITION FOR REVIEW**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission ("Commission") has determined to grant a petition for reconsideration of the Commission determination of April 8, 2025, terminating the investigation with a finding of no violation of section 337, as filed by complainant Google LLC ("Google"). The Commission hereby reopens the above-captioned investigation, reinstates the previous target date of July 7, 2025, and accepts as filed Google's petition for review of the subject initial determination ("ID") (Order No. 39) issued by the presiding administrative law judge ("ALJ") granting respondent's motion for summary determination of invalidity of the asserted patent claims and terminating the investigation for good cause. The response of respondent Sonos, Inc. ("Sonos") to Google's petition for review is due on June 5, 2025.

FOR FURTHER INFORMATION CONTACT: Carl P. Bretscher, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 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 (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 this investigation on September 15, 2022, based on a complaint filed by Google of Mountain View, California. 87 FR 56702-703 (Sept. 15, 2022). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 ("section 337"), in the importation into the United States, sale for importation, or sale in the United States after importation of certain audio players and components thereof by reason of infringement of certain asserted claims of U.S. Patent Nos. 7,705,565 ("the '565 patent"); 10,593,330 ("the '330 patent"); and 10,134,398 ("the '398 patent"). *Id.* The complaint further alleges that a domestic industry exists. *Id.* The

Commission's notice of investigation names Sonos of Santa Barbara, California as the sole respondent. *Id.* at 56703. The Office of Unfair Import Investigations was not named as a party to this investigation. *Id.*

On November 2, 2022, the Commission terminated the investigation with respect to the '565 patent. Order No. 7 (Oct. 18, 2022), *unreviewed by* Comm'n Notice (Nov. 2, 2022).

On November 30, 2022, the parties filed a joint claim construction chart, identifying the term "low power mode" among the terms in dispute. The ALJ held a *Markman* hearing on January 19, 2023.

After the *Markman* hearing, the Commission granted the parties' multiple requests for extensions of time, in order to accommodate the U.S. Patent and Trademark Office Patent Trial and Appeal Board's ("PTAB") *inter partes* review ("IPR") of the patents at issue. On May 15, 2024, the PTAB issued two Final Written Decisions ("FWD"), concluding that all of the challenged claims of the asserted patents are unpatentable under 35 U.S.C. 318(a). *Sonos, Inc. v. Google LLC*, IPR2023-00119, Patent No. 10,593,30, Final Written Decision Determining All Challenged Claims Unpatentable (May 15, 2024); *Sonos, Inc. v. Google LLC*, IPR2023-00118, Patent No. 10,134,398, Final Written Decision Determining All Challenged Claims Unpatentable (May 15, 2024).

On May 17, 2023, Sonos filed a motion for summary determination of invalidity, arguing that the asserted claims of the '330 patent and the '398 patent are, *inter alia*, invalid as indefinite ("First MSD"). Google filed its opposition to Sonos's First MSD on May 30, 2023.

On July 31, 2024, Sonos filed its second motion for summary determination of invalidity ("Second MSD"), arguing that all of the asserted patent claims are invalid as anticipated or obvious. Google filed its opposition to Sonos's Second MSD on August 20, 2024.

On February 4, 2025, the presiding ALJ issued an order (Order No. 35) inviting the parties to file a motion to terminate the investigation in view of the PTAB's two FWDs finding the asserted patent claims "unpatentable" under 35 U.S.C. § 318(a). Order No. 35 (Feb. 4, 2025), *clarified in* Order No. 36 (Feb. 19, 2025).

On February 14, 2025, Sonos moved to terminate the investigation for "good cause" in view of the PTAB's FWDs of unpatentability. Google filed its opposition to Sonos's termination motion on February 28, 2025.

On March 7, 2025, the presiding ALJ issued a claim construction order (Order No. 37) finding that the claim term "low power mode," which is used in both of the remaining patents, is indefinite, and the asserted patent claims are thus invalid. Order No. 37 (March 7, 2025).

Also on March 7, 2025, the ALJ issued an order (Order No. 38) denying Sonos' Second MSD because Sonos is estopped from asserting the same prior art in the present investigation that it asserted in the PTAB proceedings. Order No. 38 (March 7, 2025) (citing 35 U.S.C.

315(e)(2)).

Further on March 7, 2025, the ALJ issued the subject ID (Order No. 39) granting Sonos's First MSD of invalidity because the claim term "low power mode" is indefinite. Order No. 39 (March 7, 2025) (citing Order No. 37, *supra*). The ALJ also granted Sonos's motion to terminate the investigation for "good cause" due to the PTAB's two FWDs of unpatentability. Sonos, the ALJ found, represented that there are no agreements, written or oral, express or implied, between the parties concerning the subject matter of the investigation.

No party timely filed a petition for review of the subject ID.

On April 8, 2025, the Commission reviewed Order No. 39 in part and, on review, adopted the ID's finding that the asserted patent claims are invalid as indefinite. The Commission also terminated the investigation with a finding of no violation of section 337 due to the finding that the claims are invalid as indefinite and thus cannot be infringed. Comm'n Notice at 1, 3 (Apr. 8, 2025). The Commission, however, vacated the termination of the investigation for "good cause." *Id.*

On April 18, 2025, Google filed a Petition for Reconsideration and Petition for Review of the ALJ's Initial Determination Granting Motion for Summary Determination Based on Indefiniteness (Order No. 39). Google argues that it did not receive timely service of the ALJ's Order No. 39 and thus did not have the opportunity to file a timely petition for review of the ID. Google attached its petition for review of subject Order No. 39 to its petition for reconsideration.

On April 25, 2025, Sonos filed a response to Google's petition for reconsideration. Sonos notes that Order No. 39 was publicly available, and that Google only implied, but did not actually state, that it did not have notice of Order No. 39, despite the lack of service. Sonos states, however, that without knowing whether Google had notice of Order No. 39, Sonos takes no position on Google's motion for reconsideration, and asks for eight (8) days to respond to Google's petition for review, if reconsideration is granted.

Upon consideration of complainant's petition and related submissions, the Commission has determined to grant Google's petition for reconsideration, vacate its previous determination of April 8, 2025, terminating the investigation, reopens the investigation to consider Google's petition for review of Order No. 39, and reinstates the previous target date of July 7, 2025. The Commission will determine what further action to take on Order No. 39 by July 7, 2025, unless the Commission otherwise orders. Google's petition for review is accepted as filed. Sonos's response to Google's petition for review is due on June 5, 2025. No other filings will be accepted in this investigation unless authorized by the Commission or the Commission rules.

The Commission vote for this determination took place on May 27, 2025.

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 'LRB', enclosed within a thin black rectangular border.

Lisa R. Barton
Secretary to the Commission

Issued: May 27, 2025