

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN AUTOMATED TELLER
MACHINES, ATM MODULES,
COMPONENTS THEREOF, AND
PRODUCTS CONTAINING SAME**

Investigation No. 337-TA-989
(Enforcement Proceeding)

NOTICE OF INSTITUTION OF FORMAL ENFORCEMENT PROCEEDING

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has instituted a formal enforcement proceeding relating to the July 14, 2017, remedial orders issued in the above-captioned investigation.

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 202-205-3042. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<https://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.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 March 14, 2016, based on a complaint filed by Nautilus Hyosung Inc. of Seoul, Republic of Korea and Nautilus Hyosung America Inc. of Irving, Texas (collectively, "Nautilus"). 81 *Fed. Reg.* 13149 (Mar. 14, 2016). Pertinent to this action, the complaint alleged violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, in the importation into the United States, the sale for importation into the United States, and the sale within the United States after importation of certain automated teller machines, ATM modules, components thereof, and products containing the same by reason of infringement of any of claims 1-3, 6, 8, and 9 of U.S. Patent No. 8,523,235 ("the '235 patent"). *Id.* The complaint also alleged infringement of claims 1-3 and 5 of U.S. Patent No. 7,891,551; claims 1 and 6 of U.S. Patent No. 7,950,655; and claims 1-4, 6, and 7 of U.S. Patent No. 8,152,165. Those claims were subsequently terminated from the investigation. *See* Order No. 11 (June 30, 2016), Comm'n Notice of Non-Review (July 27, 2016); Order No. 17 (July 21, 2016), Comm'n Notice of Non-Review (August 16, 2016). The

notice of institution of the investigation named Diebold Nixdorf, Incorporated and Diebold Self-Service Systems both of North Canton, Ohio (collectively, “Diebold”) as respondents. The Office of Unfair Import Investigations (“OUII”) was not named as a party. *Id.*

On July 14, 2017, the Commission found a Section 337 violation as to the '235 patent and issued a limited exclusion order (“LEO”) as well as cease and desist orders (“CDOs”). 82 *Fed. Reg.* 33513-14 (July 20, 2017). The LEO prohibits the unlicensed entry of automated teller machines, ATM modules, components thereof, and products containing the same that infringe one or more of claims 1-3, 6, 8, and 9 of the '235 patent that are manufactured by, or on behalf of, or are imported by or on behalf of Diebold Nixdorf, Incorporated, Diebold Self-Service Systems, or any of their affiliated companies, parents, subsidiaries, agents, or other related business entities, or their successors or assigns. *Id.* The CDOs prohibit, among other things, the importation, sale, and distribution of infringing products by Diebold. *Id.*

On November 17, 2017, Nautilus filed a complaint requesting that the Commission institute a formal enforcement proceeding under Commission Rule 210.75(b) to investigate violations of the remedial orders by Diebold. Having examined the enforcement complaint and the supporting documents, the Commission has determined to institute a formal enforcement proceeding to determine whether Diebold is in violation of the July 14, 2017, remedial orders issued in the original investigation and to determine what, if any, enforcement measures are appropriate. Diebold is named as a respondent. OUII is named as a party.

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 section 210.75 of the Commission’s Rules of Practice and Procedure (19 C.F.R. § 210.75).

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', with a stylized flourish at the end.

Lisa R. Barton
Secretary to the Commission

Issued: December 18, 2017