

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN MOVABLE BARRIER
OPERATOR SYSTEMS AND
COMPONENTS THEREOF**

Investigation No. 337-TA-1209

**NOTICE OF COMMISSION FINAL DETERMINATION FINDING A VIOLATION
OF SECTION 337; ISSUANCE OF A LIMITED EXCLUSION ORDER AND A CEASE
AND DESIST ORDER; TERMINATION OF THE INVESTIGATION**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has found a violation of section 337 of the Tariff Act of 1930, as amended, in the above-captioned investigation. The Commission has issued a limited exclusion order (“LEO”) prohibiting the importation of certain movable barrier operator systems and components thereof that are imported by or on behalf of The Chamberlain Group, Inc. of Oak Brook, Illinois (“Respondent”), and that infringe claims 1, 4, 16, and 19 of U.S. Patent No. 9,483,935 (“the ’935 patent”); claims 18 and 24 of U.S. Patent No. 7,956,718 (“the ’718 patent”) and claim 17 of U.S. Patent No. 8,410,895 (“the ’895 patent”). The Commission has also issued a cease and desist order (“CDO”) against Respondent. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Houda Morad, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708-4716. 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 August 10, 2020, the Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (“section 337”), based on a complaint filed by Overhead Door Corporation of Lewisville, Texas and GMI Holdings Inc. of Mount Hope, Ohio (collectively, “Complainants”). See 85 FR 48264-65 (Aug. 10, 2020). The complaint, as supplemented, alleges a violation of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain movable barrier operator systems and components thereof by reason of infringement of U.S. Patent Nos. 8,970,345 (“the ’345 patent”); 7,173,516 (“the ’516 patent”); 7,180,260 (“the ’260 patent”); the ’935 patent; the ’718 patent; and the ’895 patent. See *id.* The

notice of investigation names The Chamberlain Group, Inc. of Oak Brook, Illinois as the respondent in this investigation. *See id.* The Office of Unfair Import Investigations is not a party to the investigation. *See id.*

On February 10, 2021, the Commission terminated the investigation as to the '516 patent based on the withdrawal of the allegations in the complaint as to that patent. *See* Order No. 10 (Jan. 19, 2021), *unreviewed by* Comm'n Notice (Feb. 10, 2021).

On May 26, 2021, Commission determined not to review an initial determination granting Complainants' motion for summary determination that the economic prong of the domestic industry requirement is satisfied. *See* Order No. 12 (April 26, 2021), *unreviewed by* Comm'n Notice (May 26, 2021).

On September 14, 2021, the presiding Administrative Law Judge ("ALJ") issued a final initial determination ("FID") finding a violation of section 337 based on the infringement by Respondent of all of Complainants' asserted patent claims. Specifically, the FID finds that: (1) the asserted patent claims are all infringed by Respondent's accused products and redesigned products; (2) the domestic industry products practice the asserted patents; and (3) the asserted patents are not invalid under 35 U.S.C. 101, 102, or 103. The ALJ also issued a recommended determination ("RD") recommending, should the Commission find a violation of section 337, that the Commission issue: (1) a limited exclusion order against certain movable barrier operator systems and components thereof that are imported into the United States, sold for importation, and sold within the United States after importation, by the Respondent; and (2) a cease and desist order against the Respondent. The RD also recommends that the Commission set a bond during the period of Presidential review in an amount of 100 percent of the entered value of the movable barrier operator systems imported by or on behalf of the Respondent.

On October 14, 2021, the parties filed statements on the public interest pursuant to Commission Rule 210.50, 19 CFR 210.50. Between October 20, 2021, and November 3, 2021, members of the public filed written submissions in response to the *Federal Register* notice requesting public interest comments. *See* 86 FR 56982-83 (Oct. 13, 2021).

On December 6, 2021, the Commission issued a notice determining to review the FID in part ("the WTR Notice"). *See* 86 FR 70527-29 (Dec. 10, 2021). The WTR Notice also requested written submissions from the parties on the issues under review, and from the parties, interested government agencies, and any other interested parties on issues of remedy, the public interest, and bonding. *See id.*

On December 13, 2021, the parties filed written submissions in response to the WTR Notice, and on December 20, 2020, the parties filed responses to each other's submissions. On December 13, 2021, members of the public filed written submissions concerning the public interest in response to the WTR Notice.

Having examined the record of this investigation, including the FID, the RD, and the parties' and non-parties' submissions, the Commission has determined to affirm with modification the FID's determination of a violation of section 337 with respect to claims 1, 4, 16,

and 19 of the '935 patent; claims 18 and 24 of the '718 patent; and claim 17 of the '895 patent. The Commission reverses and finds no violation as to the asserted claims of the '345 and '260 patents. Specifically, as explained in the Commission Opinion filed concurrently herewith, the Commission has determined to: (1) affirm with modification the FID's infringement findings as to the asserted claims of the '935 patent; (2) reverse the FID's infringement findings as to the asserted claims of the '345 patent; (3) affirm with modification the FID's validity findings as to the asserted claims of the '935 and '345 patents over Keller (RX-44); (4) reverse the FID's infringement findings as to the asserted claims of the '260 patent; (5) vacate and take no position as to the FID's finding that the asserted claims of the '260 patent are patent-eligible under 35 U.S.C. § 101; (6) affirm with modification the FID's infringement findings as to the asserted claims of the '718 and '895 patents; and (7) affirm with modification the FID's finding that the asserted claims of the '718 and '895 patents are patent-eligible under 35 U.S.C. § 101.

All findings in the FID that are not inconsistent with the Commission's determination are affirmed.

The Commission has determined that the appropriate remedy is an LEO against Respondent's infringing products and a CDO against Respondent. The Commission has also determined that the public interest factors enumerated in subsection 337(d)(1) and (f)(1) (19 U.S.C. 1337(d)(1), (f)(1)) do not preclude the issuance of the LEO and CDO. The Commission has further determined to set a bond during the period of Presidential review in the amount of 100 percent of the entered value of Respondent's infringing products (19 U.S.C. 1337(j)).

The Commission's orders and opinion were delivered to the President and to the United States Trade Representative on the day of their issuance.

The Commission's vote for this determination took place on February 9, 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: February 9, 2022