

**UNITED STATES INTERNATIONAL TRADE COMMISSION**  
**Washington, D.C.**

**In the Matter of**

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

**Investigation No. 337-TA-1330**

**NOTICE OF COMMISSION DETERMINATION TO REVIEW IN PART, AND, ON  
REVIEW, TO AFFIRM IN PART AND TAKE NO POSITION IN PART ON A FINAL  
INITIAL DETERMINATION FINDING NO VIOLATION OF SECTION 337;  
TERMINATION OF INVESTIGATION**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined to review in part, and on review, to affirm in part and take no position in part on a final initial determination (“ID”) issued by the presiding administrative law judge (“ALJ”) finding no violation of section 337. The investigation is terminated.

**FOR FURTHER INFORMATION CONTACT:** Amanda P. Fisherow, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2737. 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](mailto: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:** The Commission instituted this investigation on September 15, 2022, based on a complaint filed on behalf of Google LLC (“Google”) of Mountain View, California. 87 FR 56701 (Sept. 15, 2022). The complaint, as supplemented and amended, alleged a violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain audio players and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 9,632,748 (“the ’748 patent”); 9,812,128 (“the ’128 patent”); 11,024,311 (“the ’311 patent”); and 11,050,615 (“the ’615

patent”). *Id.* The complaint further alleged that an industry in the United States exists as required by section 337. *Id.* The Commission’s notice of investigation named as the respondent Sonos, Inc. (“Sonos”) of Santa Barbara, California. *Id.* The Office of Unfair Import Investigations was not named as a party in this investigation. *Id.*

The Commission previously terminated the investigation as to claims 1-4, 11-12, and 14-15 of the ’748 patent; the ’128 patent in its entirety; claims 1-3, 8, 9, 11,<sup>1</sup> 12, 14, 15, and 20 of the ’311 patent; and claims 2, 3, 7, 8, 10-12, 15, and 18 of the ’615 patent. *See* Order No. 20, *unreviewed by* Comm’n Notice (Apr. 10, 2023); Corrected Order No. 30, *unreviewed by* Comm’n Notice (June 8, 2023); Order No. 40, *unreviewed by* Comm’n Notice (July 10, 2023). The Commission also granted summary determination that the importation requirement of section 337 had been satisfied, and that Google satisfied the economic prong of the domestic industry requirement pursuant to section 337(a)(3)(B). *See* Order No. 27, *unreviewed by* Comm’n Notice (June 6, 2023); Order No. 31, *aff’d with modifications by* Comm’n Notice (June 28, 2023).

The presiding ALJ held an evidentiary hearing in this investigation from June 20-26, 2023.

On September 15, 2023, the ALJ issued the subject final ID finding no violation of section 337 because: (1) as to the ’748 patent, none of the Accused Products or Redesigned Products infringe the asserted claims, none of the Domestic Industry Products practice the asserted claims, and the asserted claims are invalid as anticipated; (2) as to the ’311 patent, the Accused Products and Redesigned Products SVC #5 and #7 infringe claim 10 and the Domestic Industry Products practice claims 10, 11, 16, and 17, but the asserted claims (except for claim 18) are invalid as anticipated or obvious, and the asserted claims are unpatentable under 35 U.S.C. 101; and (3) as to the ’615 patent, the Accused Products infringe all asserted claims (directly and indirectly), but none of the Domestic Industry Products practice the asserted claims, and the asserted claims are invalid as anticipated or obvious.

On September 29, 2023, Google filed a petition for review, seeking review of certain of the ID’s findings concerning claim construction and validity as to the ’311 patent. That same day, Sonos filed a contingent petition for review of certain of the ID’s findings regarding the validity of claim 18 of the ’311 patent, as well as infringement and validity of the ’615 patent. The parties filed responses to the petitions on October 10, 2023.

Having reviewed the record of the investigation, including the final ID, the parties’ submissions to the ALJ, the petitions, and the responses thereto, the Commission has determined to review the ID in part. Specifically, as to the ’311 patent, the Commission has determined to review the ID’s findings regarding: (1) claim construction of the term “detect[ing] a voice input;” (2) anticipation of claims 10, 16, and 17 by Rosenberger; (3) anticipation of claims 10, 16, and

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<sup>1</sup> Google continued to assert claim 11 of the ’311 patent for domestic industry purposes.

17 by the VoicePod System; (4) anticipation of claims 10, 16, and 17 by Jang; and (5) the patentability of claims 10, 11, and 16-19 under 35 U.S.C. 101. On review, the Commission has determined to affirm with modified and/or supplemental reasoning the ID's findings on these issues. The Commission has also determined to review and on review does not adopt the paragraph beginning "Lastly . . ." in the ALJ's construction of "[forgoing/forgo] responding" set forth in Order No. 14 at page 41. As to the '615 patent, the Commission has determined to review the ID's finding that claims 6 and 19 are not invalid as obvious over Roberts. On review, the Commission has determined to take no position on this issue. The Commission has determined not to review the remainder of the ID. The Commission adopts the ID's findings to the extent that they are not inconsistent with the Commission's opinion issued concurrently herewith. This investigation is terminated with a finding of no violation of section 337.

The Commission vote for this determination took place on December 13, 2023.

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 "Lisa R. Barton", enclosed within a large, loopy oval shape.

Lisa R. Barton  
Secretary to the Commission

Issued: December 13, 2023