

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN AUTOMATED PUT WALLS
AND AUTOMATED STORAGE AND
RETRIEVAL SYSTEMS, ASSOCIATED
VEHICLES, ASSOCIATED CONTROL
SOFTWARE, AND COMPONENT PARTS
THEREOF**

Investigation No. 337-TA-1293

**NOTICE OF FINAL DETERMINATION FINDING A VIOLATION OF SECTION 337;
ISSUANCE OF A LIMITED EXCLUSION ORDER AND CEASE AND DESIST
ORDERS; 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 that respondents HC Robotics (a.k.a. Huicang Information Technology Co., Ltd.) and Invata, LLC (d/b/a Invata Intralogistics) (collectively, “Respondents”) have violated section 337 of the Tariff Act of 1930, as amended, by importing, selling for importation, or selling within the United States after importation certain automated put walls and automated storage and retrieval systems, associated vehicles, associated control software, and component parts thereof that infringe one or more claims of U.S. Patent Nos. 8,622,194 and 10,576,505. The Commission has determined that the appropriate remedies are a limited exclusion order (“LEO”) and cease and desist orders (“CDOs”) against each of Respondents. The Commission has also determined to set a bond in the amount of 100 percent of the entered value of the excluded articles imported during the period of Presidential review. This investigation is hereby terminated.

FOR FURTHER INFORMATION CONTACT: Richard P. Hadorn, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3179. 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, telephone (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on January 27, 2022, based on a complaint filed by OPEX Corporation (“OPEX”) of Moorestown, New Jersey. 87 FR 4290-91 (Jan. 27, 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”), based on the importation into the United States, the sale for importation, and the sale within the United States after importation of certain automated put walls and automated storage and retrieval systems, associated vehicles, associated control software, and component parts thereof by reason of infringement of certain claims of U.S. Patent Nos. 8,104,601 (“the ’601 patent”), 8,276,740 (“the ’740 patent”), 8,622,194 (“the ’194 patent”), and 10,576,505 (“the ’505 patent”). *Id.* at 4291. The complaint further alleges that a domestic industry exists. *Id.* The notice of investigation named two respondents: (1) HC Robotics (a.k.a. Huicang Information Technology Co., Ltd.) of Hangzhou City, Zhejiang Province, China; and (2) Invata, LLC (d/b/a Invata Intralogistics) of Conshohocken, Pennsylvania. *Id.* The Office of Unfair Import Investigations is not named as a party. *Id.*

On September 13, 2022, the Commission terminated the investigation as to the OmniSort Generation 1 products based on a consent order. Order No. 10 (Aug. 12, 2022), *unreviewed by* Comm’n Notice (Sept. 13, 2022). On October 11, 2022, the Commission terminated the investigation as to (i) the ’601 patent, (ii) the ’740 patent, (iii) asserted claims 2-4, 6, 10, 12-17, 19, and 20 of the ’194 patent, and (iv) asserted claims 14, 17, and 21 of the ’505 patent based on OPEX’s partial withdrawal of the complaint. Order No. 12 (Sept. 23, 2022), *unreviewed by* Comm’n Notice (Oct. 11, 2022). On December 19, 2022, the Commission determined that the technical prong of the domestic industry requirement is satisfied in this investigation as to the remaining asserted patents—*i.e.*, the ’194 and ’505 patents. *See* Order No. 17 (Nov. 23, 2022), *unreviewed by* Comm’n Notice (Dec. 19, 2022).

On March 31, 2023, the chief administrative law judge issued a final initial determination (“ID”) on violation, which included a recommended determination (“RD”) on remedy and bonding. The ID finds violations of section 337 with respect to asserted claims 1 and 5 of the ’194 patent and asserted claims 1-5, 7-9, 11-13, 15-16, and 18-20 of the ’505 patent. Specifically, the ID finds that: (i) OPEX has standing to assert both the ’194 and ’505 patents; (ii) the asserted claims listed above are directly infringed by Respondents; (iii) Respondents both induced and contributed to the infringement of each of the asserted claims listed above; (iv) no asserted claim is invalid; and (v) OPEX has satisfied the domestic industry requirement as to both patents. The RD recommends that, should the Commission determine that violations of section 337 occurred, the Commission should: (i) issue an LEO against the Respondents’ infringing products; (ii) issue CDOs against each of Respondents; and (iii) set a 100 percent bond for importations of infringing products during the period of Presidential review.

On June 1, 2023, the Commission determined to review in part the final ID with respect to the ID’s finding that OPEX has satisfied the economic prong of the DI requirement. 88 FR 37271-73 (June 7, 2023). The Commission also determined to correct typographical/clerical errors on pages 8, 35, and 38 of the ID. *Id.* The Commission further determined not to review the remaining findings in the ID. *Id.* The Commission’s notice requested written submissions

on remedy, the public interest, and bonding. *See id.* The Commission did not request briefing on any issue under review. *Id.*

The Commission did not receive submissions on the public interest from the parties pursuant to Commission Rule 210.50(a)(4) (19 CFR 210.50(a)(4)). The Commission also did not receive any submissions on the public interest from members of the public in response to the Commission's *Federal Register* notice. *See* 88 FR 23689 (Apr. 18, 2023).

On June 15, 2023, OPEX and Respondents each filed initial briefs on remedy, the public interest, and bonding. On June 22, 2023, OPEX and Respondents each filed reply briefs.

The Commission, having reviewed the record in this investigation, including the final ID, the parties' petitions and responses thereto, and the parties' briefs on remedy, the public interest, and bonding, has determined that Respondents have violated section 337 by importing, selling for importation, or selling within the United States after importation certain automated put walls and automated storage and retrieval systems, associated vehicles, associated control software, and component parts thereof that infringe one or more claims of claims 1 and 5 of the '194 patent and claims 1-5, 7-9, 11-13, 15-16, and 18-20 of the '505 patent.

The Commission has determined that the appropriate remedy is: (i) an LEO prohibiting the importation of certain automated put walls and automated storage and retrieval systems, associated vehicles, associated control software, and component parts thereof that infringe one or more claims of claims 1 and 5 of the '194 patent and claims 1-5, 7-9, 11-13, 15-16, and 18-20 of the '505 patent; and (ii) CDOs against each of Respondents. The Commission has also determined that the public interest factors do not preclude issuance of the remedial orders. The Commission has further determined to set a bond in the amount of 100 percent of the entered value of the excluded articles imported during the period of Presidential review (19 U.S.C. 1337(j)).

The Commission issues its opinion herewith setting forth its determinations on certain issues. This investigation is hereby terminated.

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

The Commission vote for this determination took place on July 31, 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 'LRB', enclosed within a circular flourish.

Lisa R. Barton
Secretary to the Commission

Issued: July 31, 2023