

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN OUTDOOR AND SEMI-OUTDOOR
ELECTRONIC DISPLAYS, PRODUCTS
CONTAINING SAME, AND COMPONENTS
THEREOF**

Investigation No. 337-TA-1331

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW A FINAL
INITIAL DETERMINATION FINDING NO VIOLATION OF SECTION 337;
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 determined not to review the presiding administrative law judge's ("ALJ") final initial determination ("FID") finding no violation of section 337 of the Tariff Act of 1930, as amended. The investigation is terminated with a finding of no violation.

FOR FURTHER INFORMATION CONTACT: Paul Lall, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2043. 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 23, 2022, based on a complaint filed on behalf of Manufacturing Resources International, Inc. ("MRI") of Alpharetta, Georgia. 87 FR 58132-33 (Sept. 23, 2022). The complaint 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, or the sale within the United States after importation of certain outdoor and semi-outdoor electronic displays, products containing same, and components thereof with respect to certain claims of U.S. Patent Nos. 8,854,595 ("the '595 patent"); 9,173,322 ("the '322 patent");

9,629,287 (“the ’287 patent”); 10,506,740 (“the ’740 patent”); and 11,013,142 (“the ’142 patent”) (collectively, the “Asserted Patents”). The complaint further alleges that a domestic industry exists.

The Commission’s notice of investigation (“NOI”) names seven (7) respondents, including: (1) Samsung Electronics Co., Ltd. (“Samsung Electronics”) of Gyeonggi-do, Republic of Korea; (2) Samsung SDS Co. Ltd. of Seoul, Republic of Korea; (3) Samsung SDS America, Inc. (“Samsung SDS America”) and Samsung Electronics America, Inc. (“Samsung Electronics America”), both of Ridgefield Park, New Jersey; (4) Coates Visual LLC (“Coates Visual”) of Chicago, Illinois; (5) Coates Signco Pty Limited of Sydney, Australia; and (6) Industrial Enclosure Corporation d/b/a Palmer Digital Group (“Palmer Digital”) of Aurora, Illinois. The Office of Unfair Import Investigations is not participating in the investigation.

On November 10, 2022, the Commission terminated this investigation as to respondent Coates Visual and amended the complaint and NOI to add Coates US Inc. of Chicago, Illinois (“Coates US”) as a respondent. Order No. 6 (Oct. 24, 2022), *unreviewed by Comm’n Notice* (Nov. 10, 2022).

The presiding ALJ held a *Markman* hearing on March 1, 2023. On May 15, 2023, the ALJ issued a *Markman* order construing certain disputed claim terms. Order No. 13 (May 15, 2023).

On June 5, 2023, the Commission terminated this investigation as to respondents Samsung SDS Co. Ltd. and Coates Signco Pty Limited. Order Nos. 10-11 (May 4, 2023), *unreviewed by Comm’n Notice* (June 5, 2023). Order Nos. 10-11, issued on May 4, 2023, terminated only two respondents: Samsung SDS Co. Ltd. and Coates Signco Pty Limited. The Commission’s related notice, issued June 5, 2023, inadvertently terminated two additional respondents: Samsung SDS America, Inc. and Coates US Inc. This notice corrects that error.

Five respondents remain in the investigation (hereinafter, “Respondents”): Samsung Electronics; Samsung Electronics America; Samsung SDS America (collectively, “Samsung”); Coates US; and Palmer Digital.

On July 17, 2023, the Commission granted summary determination that the economic prong of the domestic industry requirement is satisfied as to the Asserted Patents. *See* Order No. 19 (June 15, 2023), *unreviewed by Comm’n Notice* (July 17, 2023).

The presiding ALJ held an evidentiary hearing on June 26-30, 2023.

On August 9, 2023, the Commission terminated the investigation as to the following claims: claims 13, 16, and 18 of the ’595 patent; claims 1, 2, 7, and 16 of the ’322 patent; claims 1-11, 13, 15, 17-19 and 21-23 of the ’287 patent; claims 2-3, 6, 8, 10, 13, 15-18, and 20 of the ’740 patent; and claims 1-5, 7-9, and 11-15 of the ’142 patent. Order No. 36 (July 11, 2023), *unreviewed by Comm’n Notice* (August 9, 2023).

On September 11, 2023, the Commission affirmed (as to non-terminated claims remaining asserted) an initial determination granting-in-part a motion for summary determination of non-infringement of certain unaccused products. Order No. 21 (June 20, 2023), *aff'd* by Comm'n Notice (September 11, 2023).

On November 13, 2023, the presiding ALJ issued the FID, finding that there has been no violation of section 337 in the importation into the United States, the sale for importation, and/or the sale in the United States after importation of certain outdoor and semi-outdoor electronic displays, products containing same, and components thereof. Specifically, the FID finds: 1) for the '287 patent, claim 12 is not infringed and is not invalid for obviousness under 35 U.S.C 103, and Respondents' non-accused redesigned products are ripe for adjudication and do not satisfy claim 12; 2) for the '595 patent, claims 1, 4 and 7 are infringed, claim 8 is not infringed, claim 1 is invalid for anticipation and/or obviousness under 35 U.S.C 102, 103, and claims 4, 7 and 8 are invalid for obviousness under 35 U.S.C 103; 3) for the '322 patent, claims 4 and 5 are infringed, claims 8, 9, 12 and 13 are not infringed, claims 3, 4, 5, and 8 are invalid for anticipation and/or obviousness under 35 U.S.C 102, 103, and claims 9, 12, and 13 are invalid for lack of written description under 35 U.S.C. 112; 4) for the '740 patent, claims 1 and 5 are infringed and claims 1 and 5 are invalid for obviousness under 35 U.S.C 103; and 5) for the '142 patent, claims 6 and 10 are infringed and claims 6 and 10 are invalid for obviousness under 35 U.S.C 103.

On November 27, 2023, the presiding ALJ issued a recommended determination ("RD") on remedy and bonding. The RD recommends the issuance of a limited exclusion order ("LEO") directed to "outdoor and semi-outdoor electronic displays, products containing same (housings, enclosures, kiosks, and menu boards), and component[s] thereof (systems for cooling electronic displays)," in the event that the Commission finds a violation of section 337. In particular, the RD recommends that the LEO should be directed to all Respondents if there is a finding of violation based, in whole or in part, on the Accused Samsung Mid-Sized Products, but should be directed only to Samsung Electronics, Samsung Electronics America and Samsung SDS America if there is a finding of violation based only on the Accused Samsung Large-Sized Products. *Id.* at 3-4. The RD also recommends that, if a violation is found, a cease and desist order ("CDO") should issue against Samsung Electronics America, but no CDO should issue against Samsung Electronics or Samsung SDS America. *Id.* at 7-8. In addition, the RD recommends that, if the Commission finds a violation based on the Accused Mid-Sized Products, a CDO should issue against Coates US and Palmer Digital. *Id.* at 8-9. The RD further recommends that a bond of 2.25 percent be set for any importations of infringing products during the period of Presidential review. *Id.* at 11-12.

On November 27, 2023, MRI filed a petition for review of several of the FID's findings. Specifically, MRI seeks review of the FID's findings that: 1) the Accused Samsung Mid-Sized and Large-Sized Products do not infringe the asserted claim of the '287 Patent; 2) Samsung's redesign products were ripe for adjudication; and 3) certain claims of the '595, '322, '740, and '142 patents are invalid as anticipated and/or obvious.

Also on November 27, 2023, Respondents filed a contingent petition for review of certain of the FID's findings. Specifically, Respondents seek contingent review the FID's findings that: 1) the Asserted Patents are not invalid due to incorrect inventorship and/or unenforceable due to inequitable conduct; 2) claims 1, 4 and 7 of the '595 Patent and/or claims 4 and 5 of the '322 patent are infringed; and 3) claim 12 of the '287 patent is not invalid. Respondents also seek review of additional non-infringement bases for claims 9, 12, or 13 of the '322 patent.

On December 5, 2023, the parties filed their respective responses to the petitions for review.

On December 27, 2023, MRI filed a statement on the public interest pursuant to Commission Rule 210.50(a)(4), 19 CFR. 210.50(a)(4). Respondents did not file a submission pursuant to Commission Rule 210.50(a)(4). No responses were received in response to the Commission's post-RD notice seeking public interest submissions. 88 FR 84360-61 (Dec. 5, 2023).

The Commission has determined not to review the subject FID. The Commission notes, however, that the FID, in analyzing whether claim 4 of the '322 patent is rendered obvious by the combination of certain prior art references, states several times that "MRI has shown by clear and convincing evidence" that each of the eight elements of claim 4 is disclosed by the prior art. *See* FID, at 213, 214, 215 and 216. The FID clearly meant that for each element, "Respondents have shown by clear and convincing evidence. . . ." This aspect of the FID is accordingly clarified.

The investigation is terminated with a finding of no violation of section 337.

The Commission vote for this determination took place on February 28, 2024.

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 28, 2024