

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

In the Matter of

**CERTAIN ROBOTIC FLOOR
CLEANING DEVICES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-1252

**NOTICE OF COMMISSION FINAL DETERMINATION FINDING A VIOLATION
OF SECTION 337; ISSUANCE OF A LIMITED EXCLUSION ORDER AND CEASE
AND DESIST ORDERS; 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 robotic floor cleaning devices and components thereof that are imported by or on behalf of SharkNinja Operating LLC, SharkNinja Management LLC, SharkNinja Management Co., SharkNinja Sales Co., EP Midco LLC, and SharkNinja Hong Kong Co. Ltd., and that infringe claims 1 and 9 of U.S. Patent No. 10,813,517 (“the ’517 patent”). The Commission has also issued cease and desist orders (“CDOs”) against each 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: The Commission instituted this investigation on March 2, 2021, based on a complaint filed on behalf of iRobot Corporation (“iRobot” or “Complainant”) of Bedford, Massachusetts. *See* 86 FR 12206-07 (Mar. 2, 2021). The complaint alleged violations 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 robotic floor cleaning devices and components thereof based on the infringement of certain claims of the ’517 patent; as well as U.S. Patent Nos. 9,884,423 (“the ’423 patent”); 7,571,511 (“the ’511 patent”); 10,835,096 (“the ’096 patent”); and 10,296,007 (“the ’007 patent”). *See id.* The Commission’s notice of investigation named as

respondents SharkNinja Operating LLC, SharkNinja Management LLC, SharkNinja Management Co., SharkNinja Sales Co., and EP Midco LLC, all of Needham, Massachusetts; and SharkNinja Hong Kong Co. Ltd. of Hong Kong Island, Hong Kong (collectively, “SharkNinja” or “Respondents”). *See id.* The Office of Unfair Import Investigations is not participating in the investigation. *See id.*

The '007 patent has been terminated from the investigation. *See* Order No. 23 (Sept. 13, 2021), *unreviewed by* Comm’n Notice (Oct. 5, 2021); Order No. 38 (Jan. 4, 2022), *unreviewed by* Comm’n Notice (Jan. 25, 2022). Accordingly, claims 9, 12, and 23 of the '423 patent; claims 12 and 23 of the '511 patent; claims 1 and 9 of the '517 patent; and claims 17 and 26 of the '096 patent were still pending before the Administrative Law Judge (“ALJ”).

On December 30, 2021, the ALJ issued a *Markman* Order (Order No. 37) construing the claim terms in dispute for all asserted patents.

On October 7, 2022, the ALJ issued a final initial determination (“FID”) finding: (1) a violation of section 337 based on infringement of claims 9 and 12 of the '423 patent and claims 1 and 9 of the '517 patent; (2) no infringement of claim 23 of the '423 patent; (3) no violation as to claims 17 and 26 of the '096 patent; and (4) no violation as to claims 12 and 23 of the '511 patent. The ALJ recommended, should the Commission find a violation, issuing a limited exclusion order directed to SharkNinja’s infringing products and a cease and desist order directed to each SharkNinja entity and setting a bond in the amount of twenty percent (20%) for importation of infringing articles during the period of Presidential review.

On October 24, 2022, SharkNinja and iRobot each petitioned for review of certain aspects of the FID. On November 1, 2022, SharkNinja and iRobot each filed a response in opposition to each other’s petition for review.

The Commission received no public interest comments from the public in response to the Commission’s *Federal Register* notice seeking comments on the public interest. *See* 87 FR 62451-52 (Oct. 14, 2022). iRobot submitted public interest comments pursuant to Commission Rule 210.50(a)(4) (19 CFR 210.50(a)(4)) on November 9, 2022.

On January 4, 2023, the Commission determined to review certain aspects of the FID and requested submissions from the parties on certain issues under review. *See* 88 FR 1405-07 (Jan. 10, 2023). The Commission also requested written submissions from the parties, interested government agencies, and other interested persons on the issues of remedy, the public interest, and bonding. *See id.* Specifically, the Commission determined to review: (1) for the '511 patent, the FID’s finding that estoppel applies to the Trilobite prior art device and claims 1, 10, 12, and 23 are invalid based on the Patent Trial and Appeal Board’s (“PTAB”) finding that the claims are unpatentable; (2) for the '423 patent, the FID’s findings that: (i) claim 9 of the '423 patent is practiced by the domestic industry (“DI”) products; (ii) SharkNinja’s accused robots with forward-docking, *i.e.*, the IQ, AI, and AI-WD products, do not infringe claim 23 of the '423 patent; (iii) the prior art Dottie robot does not anticipate claim 23 of the '423 patent; (iv) the prior art combination of Dottie and Everett and the prior art combination of Dottie and Kim do not render claims 12 or 23, respectively, of the '423 patent obvious under 35 U.S.C. § 103;

(v) iRobot presented insufficient evidence of secondary considerations of non-obviousness with respect to claim 23; and (vi) claim 23 of the '423 patent is directed to patent-eligible subject matter under 35 U.S.C. 101; (3) for the '517 patent, the ALJ's construction and finding that (i) the "receiving system" for claims 1 and 9 is not means-plus-function; (ii) claims 1 and 9 are infringed by SharkNinja's accused products; (iii) claims 1 and 9 are practiced by iRobot's DI products; and (iv) claims 1 and 9 are not anticipated by the asserted prior art (Kawakami); and (4) for all asserted patents, *i.e.*, the '511, '423, '517, and '096 patents, the ID's finding that iRobot satisfied the economic prong of the domestic industry requirement. *See* Comm'n Notice (Jan. 4, 2023); 88 FR 1405-07 (Jan. 10, 2023).

In response to the Commission's notice, on January 18, 2023, iRobot and SharkNinja each filed a brief on the requested issues under review, remedy, the public interest, and bonding. On January 25, 2023, the parties filed reply briefs. The Commission received no other submissions.

Having examined the record of this investigation, including the FID, the RD, and the 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 and 9 of the '517 patent. The Commission reverses and finds no violation as to the asserted claims of the '423 patent. Specifically, as explained in the Commission Opinion filed concurrently herewith, the Commission has determined to:

- vacate the FID's findings as to the '511 patent, which was found unpatentable by the PTAB and no appeal was taken from that PTAB determination;
- reverse the FID's finding that iRobot's DI products practice claim 9 of the '423 patent and thus the finding that iRobot satisfied the technical prong of the domestic industry requirement based on a valid claim;
- reverse the FID's finding that claim 12 of the '423 patent is not obvious over Dottie in view of Everett under 35 U.S.C. § 103;
- reverse the FID's finding that certain accused products do not infringe claim 23 of the '423 patent;
- take no position with respect to the FID's finding that claim 23 of the '423 patent is not anticipated by Dottie under 35 U.S.C. § 102;
- reverse the FID's finding that claim 23 of the '423 patent is not obvious over Dottie in view of Kim under 35 U.S.C. § 103;
- take no position with respect to the FID's finding that claim 23 of the '423 patent is patent-eligible under 35 U.S.C. § 101;
- modify and supplement the FID's claim construction of the term "receiving system";

- affirm with modification the FID’s finding that SharkNinja’s accused products infringe the asserted claims of the ’517 patent;
- affirm with modification the FID’s finding that iRobot’s DI products practice the asserted claims of the ’517 patent; and
- affirm and supplement the FID’s finding that the asserted claims of the ’517 patent are not anticipated by Kawakami under 35 U.S.C. § 102;
- affirm the FID’s findings that iRobot satisfies the economic prong of the domestic industry requirement with respect to the ’517 patent and take no position as to those findings with respect to the ’511, ’423, or ’096 patents.

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 Respondents’ infringing products and a CDO against each 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 CDOs. The Commission has further determined to set a bond during the period of Presidential review in the amount of twenty percent (20%) of the entered value of Respondents’ 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 March 21, 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.



Lisa R. Barton
Secretary to the Commission

Issued: March 21, 2023