

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of
CERTAIN AUDIO PLAYERS AND
COMPONENTS THEREOF (I)

Investigation No. 337-TA-1329

**NOTICE OF A COMMISSION DETERMINATION TO REVIEW IN PART AN INITIAL
DETERMINATION GRANTING SUMMARY DETERMINATION OF INVALIDITY
AND TERMINATING THE INVESTIGATION FOR GOOD CAUSE;
TERMINATION OF INVESTIGATION**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (“Commission”) has determined to review in part an initial determination (“ID”) (Order No. 39) issued by the presiding administrative law judge (“ALJ”) granting respondent’s motion for summary determination of invalidity of the asserted patent claims due to indefiniteness and also terminating the investigation for good cause. On review, the Commission vacates the ID’s termination for good cause. The investigation is terminated with a finding of no violation of section 337 based on invalidity of the asserted patent claims.

FOR FURTHER INFORMATION CONTACT: Carl P. Bretscher, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, telephone (202) 205-2382. 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 15, 2022, based on a complaint filed by Google LLC of Mountain View, California (“Google”). 87 FR 56702-703 (Sept. 15, 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”), in the importation into the United States, sale for importation, or sale in the United States after importation of certain audio players and components thereof by reason of infringement of certain asserted claims of U.S. Patent Nos. 7,705,565 (“the ’565 patent”); 10,593,330 (“the ’330 patent”); and 10,134,398 (“the ’398 patent”). *Id.* The complaint further alleges that a domestic industry exists. *Id.* The Commission’s notice of investigation names Sonos, Inc. of Santa Barbara, California (“Sonos”) as the respondent. *Id.* at 56703. The Office of Unfair Import Investigations was not named as a party to this investigation. *Id.*

On November 2, 2022, the Commission terminated the investigation with respect to the '565 patent. Order No. 7 (Oct. 18, 2022), *unreviewed by Comm'n Notice* (Nov. 2, 2022).

On November 30, 2022, the parties filed a joint claim construction chart, identifying the term “low power mode” among the terms in dispute. The parties filed their initial claim construction briefs on December 23, 2022, and their reply briefs on February 10, 2023. The ALJ held a *Markman* hearing on January 19, 2023.

On May 17, 2023, Sonos filed a motion for summary determination that the asserted claims of the '330 patent and the '398 patent are, *inter alia*, invalid as indefinite (“First MSD”). Google filed its opposition to Sonos’s First MSD on May 30, 2023.

After the *Markman* hearing, the Commission granted the parties’ multiple requests for extensions of time, in order to accommodate the Patent Trial and Appeal Board’s (“PTAB”) *inter partes* review (“IPR”) of the patents at issue. On May 15, 2024, the PTAB issued two Final Written Decisions (“FWD”), concluding that all of the challenged claims of the asserted patents are unpatentable under 35 U.S.C. 318(a). *Sonos, Inc. v. Google LLC*, IPR2023-00119, Patent No. 10,593,30, Final Written Decision Determining All Challenged Claims Unpatentable (May 15, 2024); *Sonos, Inc. v. Google LLC*, IPR2023-00118, Patent No. 10,134,398, Final Written Decision Determining All Challenged Claims Unpatentable (May 15, 2024).

On July 31, 2024, Sonos filed its second motion for summary determination of invalidity (“Second MSD”) that the asserted patent claims are invalid as anticipated or obvious. Google filed its opposition to Sonos’s Second MSD on August 20, 2024.

On February 4, 2025, the presiding ALJ issued an order (Order No. 35) inviting the parties to file a motion to terminate the investigation in view of the PTAB’s two FWDs of invalidity. Order No. 35 (Feb. 4, 2025), *clarified in* Order No. 36 (Feb. 19, 2025).

On February 14, 2025, Sonos also moved to terminate the investigation in view of the PTAB’s FWDs of invalidity. Google filed its opposition to Sonos’s termination motion on February 28, 2025.

On March 7, 2025, the presiding ALJ issued a claim construction order (Order No. 37) finding that the claim term “low power mode,” which is used in both of the remaining patents, is indefinite, and the asserted patent claims are thus invalid. Order No. 37 (March 7, 2025).

On March 7, 2025, the ALJ issued an order (Order No. 38) denying Sonos’ Second MSD because Sonos is estopped from asserting the same prior art in the present investigation that it asserted in the PTAB proceedings. Order No. 38 (March 7, 2025) (citing 35 U.S.C. 315(e)(2)).

On March 7, 2025, the ALJ also issued the subject ID (Order No. 39) granting Sonos’s First MSD of invalidity because the claim term “low power mode” is indefinite. Order No. 39 (March 7, 2025) (citing Order No. 37, *supra*). The ALJ also granted Sonos’s motion to terminate the investigation for “good cause” in view of the PTAB’s two FWDs of invalidity. Sonos, the ALJ found, represented that there are no agreements, written or oral, express or implied, between the parties concerning the subject matter of the investigation.

No party filed a petition for review of the subject ID.

The Commission has determined to review Order No. 39 in part. Specifically, the Commission has determined not to review, and thus adopts, the ALJ's finding that the asserted claims of the '330 patent and '398 patent are invalid because the term "low power mode" is indefinite. Accordingly, the Commission finds there is no violation of section 337, per 19 U.S.C. 1337(a)(1)(B)(1) (requiring infringement of a valid claim for a finding of violation). The Commission, however, has determined *sua sponte* to review in part Order No. 39's termination of the investigation for "good cause." The Commission finds that there is no basis in either Commission precedent or the Commission's rules to terminate an investigation based on a PTAB final written decision that may still be appealed. *See Certain Network Devices, Related Software and Components Thereof (II)*, Inv. No. 337-TA-945, Comm'n Op. at 12 (Aug. 2017) (explaining that "the law is clear that patent claims are valid until the PTO issues certificates cancelling those claims, which it cannot do until the exhaustion of any appeals . . . take[n] from the PTAB's final written decisions"). On review, the Commission has determined to vacate the ALJ's termination for "good cause."

The investigation is terminated based on the finding of no violation.

The Commission vote for this determination took place on April 8, 2025.

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: April 8, 2025