

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN ELECTRICAL
CONNECTORS, COMPONENTS
THEREOF, AND PRODUCTS
CONTAINING THE SAME**

Investigation No. 337-TA-1043

**NOTICE OF COMMISSION DECISION TO REVERSE AN
INITIAL DETERMINATION GRANTING RESPONDENTS' MOTION FOR
SUMMARY DETERMINATION OF INVALIDITY AS TO ASSERTED CLAIM 9**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to reverse an initial determination ("ID") (Order No. 30) of the presiding administrative law judge ("ALJ") granting in part respondents' motion for summary determination of invalidity of claims 1 and 9 of U.S. Patent No. 7,004,766 ("the '766 patent").

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, D.C. 20436, telephone (202) 708-2310. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.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 14, 2017, based on a complaint filed by J.S.T. Corporation of Farmington Hills, Michigan. 82 FR 13654-55. The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, by reason of infringement of claims 2, 4, and 9-10 of the '766 patent. The complaint further alleges the existence of a domestic industry. The Commission's notice of investigation named the following respondents: Robert Bosch GmbH of Baden-Wuerttemberg, Germany; Bosch Automotive Products (Suzhou) Co., Ltd. of Jiangsu, China; Robert Bosch LLC of Broadview, Illinois; Robert Bosch, Sistemas

Automatrices, S.A. de C.V. of Chihuahua, Mexico; Robert Bosch Ltda. of Campinas-SP, Brazil; and Hon Hai Precision Industry Co., Ltd. and Foxconn Interconnect Technology, Ltd., both of New Tapei City, Taiwan. The Office of Unfair Import Investigations is not participating in the investigation.

On April 5, 2018, the ALJ issued a second *Markman* Claim Construction Order (Order No. 25) finding that the language in claim 9, “the plural holes are all respectively independent individual holes that are not interconnected with one another and that are configured and arranged so that each one of the holes receives no more than one of the contact legs therein,” is indefinite. The ALJ specifically found that a person of ordinary skill in the art would not understand the scope of the four limitations in claim 9, *i.e.*, (1) “independent;” (2) “individual;” (3) “not interconnected;” and (4) “configured and arranged so that each one of the holes receives no more than one of the contact legs therein.” Claim 1 includes similar language, *i.e.*, “wherein the through holes are all respectively independent individual holes that are not interconnected with one another and that are configured and arranged so that each one of the holes receives no more than one of the contact legs therein.” On April 23, 2018, respondents moved for summary determination of invalidity of claims 1 and 9. Complainant opposed the motion.

On May 18, 2018, the ALJ issued the subject ID (Order No. 30) granting in part respondents’ motion for summary determination of invalidity of claims 1 and 9 of the ’766 patent with respect to claim 9. The ALJ found that summary determination of invalidity of asserted claim 9 is appropriate based on his previous finding of indefiniteness as to this term in his *Markman* Order. *See* Order No. 25 at 6-10 (expressly incorporated by reference). He did not grant summary determination as to unasserted claim 1. Complainant filed a petition for review on May 29, 2018. On June 5, 2018, respondents filed their combined response in opposition.

On June 19, 2018, the Commission determined to review the subject ID. Specifically, the Commission determined to review the ID’s finding that claim 9 of the ’766 patent is invalid because the claim language, “the plural holes are all respectively independent individual holes that are not interconnected with one another and that are configured and arranged so that each one of the holes receives no more than one of the contact legs therein,” is indefinite.

Having reviewed the record in this investigation, including the subject ID, the petition for review, and the response thereto, the Commission has determined to reverse the ID’s granting of summary determination of invalidity, including Order No. 25’s finding of indefiniteness, and to construe the claim language at issue in asserted claim 9 of the ’766 patent. Specifically, the Commission construes claim 9 to mean “the through holes are not connected or otherwise dependent upon each other and each hole is configured to receive a single contact leg therethrough.” Accordingly, the Commission has also determined to order the presiding ALJ to incorporate the Commission’s claim construction into the investigation proceedings.

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', written in a cursive style.

Lisa R. Barton
Secretary to the Commission

Issued: July 24, 2018