

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN WIRELESS MESH
NETWORKING PRODUCTS AND
RELATED COMPONENTS THEREOF**

Investigation No. 337-TA-1131

**NOTICE OF A COMMISSION DETERMINATION TO REVIEW IN PART AND
VACATE IN PART A FINAL INITIAL DETERMINATION AND TO AFFIRM THE
FINDING OF 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 to review in part the Administrative Law Judge's ("ALJ") final initial determination ("ID"), issued on January 10, 2020, affirm the ID's finding of no violation of section 337 in the above-referenced investigation, and vacate in part the ID. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Benjamin S. Richards, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708-5453. 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 September 10, 2018, based on a complaint, as supplemented, filed by SIPCO LLC of Ashburn, Virginia ("SIPCO"). *See* 83 FR 45681-82 (Sep. 10, 2018). The complaint, as supplemented, alleges 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 wireless mesh networking products and related components thereof by reason of infringement of certain claims of U.S. Patents Nos. 6,914,893 ("the '893 patent"); 7,103,511 ("the '511 patent"); 8,964,708 ("the '708 patent"); and 9,439,126 ("the '126 patent"). *See id.* The notice of investigation names the following respondents: Emerson Electric Co. of St. Louis, Missouri; Emerson Process Management LLLP of

Bloomington, Minnesota; Emerson Process Management Asia Pacific Private Limited of Singapore; Emerson Process Management Manufacturing (M) Sdn. Bhd. of Nilai, Malaysia; Fisher-Rosemount Systems, Inc. of Round Rock, Texas; Rosemount Inc. of Shakopee, Minnesota; Analog Devices, Inc. of Norwood, Massachusetts; Linear Technology LLC of Milpitas, California; Dust Networks, Inc. of Union City, California; Tadiran Batteries Inc. of Lake Success, New York; and Tadiran Batteries Ltd. of Kiryat Ekron, Israel. *See id.* The Office of Unfair Import Investigations is not a party to this investigation. *See id.*

During the course of the investigation, respondents Dust Networks, Inc., Tadiran Batteries Inc., and Tadiran Batteries Ltd. were terminated from the investigation. The remaining respondents are Emerson Electric Co.; Emerson Process Management LLLP; Emerson Process Management Asia Pacific Private Limited; Emerson Process Management Manufacturing (M) Sdn. Bhd.; Fisher-Rosemount Systems, Inc.; Rosemount Inc.; Analog Devices, Inc.; and Linear Technology LLC (collectively “Respondents”). The asserted claims of the ’126 patent and ’511 patent were also terminated from the investigation. The ’893 and ’708 patents remain asserted in this investigation.

On January 10, 2020, the ALJ issued the final ID in this investigation. The ID found no violation of section 337. The ID’s finding included subsidiary findings that SIPCO failed to show infringement of any asserted claim of the ’893 or ’708 patents and that all of the remaining asserted claims of the ’708 patent were invalid. The ID also found that SIPCO failed to satisfy the domestic industry requirement for either of the ’708 or ’893 patents. The ID also included the ALJ’s recommended determination on remedy bonding. In the event the Commission were to find a violation of section 337, the ALJ recommended issuance of a limited exclusion order, a cease and desist order, and a bond of either 0.1% or 0.05%, depending on the basis for the violation finding.

On January 27, 2020, SIPCO and Respondents submitted petitions seeking review of the ID. On February 4, 2020, SIPCO and Respondents submitted responses to the others’ petitions.

Having examined the record of this investigation, including the ID, the petitions for review, and the responses thereto, the Commission has determined to review the ID with respect to (1) the construction of “remote wireless device” in the ’708 patent; (2) infringement and validity of the ’708 patent; (3) infringement and validity of the ’893 patent; and (4) whether SIPCO satisfies the domestic industry requirement of section 337 for the ’708 or the ’893 patent. The Commission has determined not to review the remainder of the ID.

On review, the Commission has determined to affirm the ID’s finding of no violation of section 337 with regard to the ’708 patent and the ’893 patent. In addition, the Commission has determined to vacate certain portions of the final ID. The Commission opinion is issued concurrently herewith.

The investigation is hereby terminated.

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 210).

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', with a stylized flourish at the end.

Lisa R. Barton
Secretary to the Commission

Issued: April 21, 2020