

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

**In the Matter of**

**CERTAIN SMART THERMOSTATS,  
SMART HVAC SYSTEMS, AND  
COMPONENTS THEREOF**

**Investigation No. 337-TA-1185**

**NOTICE OF COMMISSION DECISION NOT TO REVIEW AN INITIAL  
DETERMINATION GRANTING AN UNOPPOSED MOTION FOR PARTIAL  
TERMINATION OF THE INVESTIGATION AS TO CERTAIN PATENT CLAIMS**

**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 an initial determination (“ID”) (Order No. 27) of the presiding administrative law judge (“ALJ”) granting an unopposed motion for partial termination of the investigation as to the asserted claims of U.S. Patent No. 8,498,753 (“the ’753 patent”) and certain claims of the remaining asserted patents based on the withdrawal of the complaint allegations as to those claims.

**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](mailto: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:** On November 27, 2019, the Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (“section 337”), based on a complaint filed by EcoFactor, Inc. of Palo Alto, California. *See* 84 FR 65421-22 (Nov. 27, 2019). The complaint alleges a violation of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain smart thermostats, smart HVAC systems, and components thereof by reason of infringement of certain claims of the ’753 patent and U.S. Patent Nos. 8,131,497 (“the ’497 patent”); 8,423,322 (“the ’322 patent”); and 10,018,371 (“the ’371 patent”). *See id.* The notice of investigation names the following respondents: Daikin Industries, Ltd. of Osaka, Japan; Daikin America, Inc. of Orangeburg, New York; and Daikin North America LLC of Houston, Texas (collectively, “the Daikin Respondents”); Schneider Electric USA, Inc. of Andover, Massachusetts and Schneider Electric SE of Rueil-Malmaison, France (collectively,

“the Schneider Respondents”); Ecobee Ltd. and Ecobee, Inc. of Toronto, Canada (collectively, “Ecobee”); Google LLC of Mountain View, California (“Google”); Alarm.com Incorporated and Alarm.com Holdings, Inc. of Tysons, Virginia (collectively, “Alarm.com”); and Vivint, Inc. of Provo, Utah (“Vivint”). *See id.* The Office of Unfair Import Investigations (“OUII”) is also a party to the investigation. *See id.*

On June 11, 2020, the ALJ issued an ID (Order No. 10) granting a joint motion to partially terminate the investigation as to the Daikin Respondents based on settlement. *See* Order No. 10 (June 11, 2020), *unreviewed by* Comm’n Notice (July 1, 2020). On August 10, 2020, the ALJ issued an ID (Order No. 15) granting a joint motion to terminate the investigation in part as to the Schneider Respondents based on settlement. *See* Order No. 15 (Aug. 10, 2020), *unreviewed by* Comm’n Notice (Aug. 31, 2020).

On November 16, 2020, Complainant filed an unopposed motion (“Motion”) for partial termination of the investigation with respect to: (1) the ’753 patent as to Alarm.com, Ecobee, Google, and Vivint (collectively, “Respondents”) and thus in its entirety; (2) the ’322 patent and the ’371 patent as to Ecobee; and (3) the ’497 patent as to Alarm.com. On November 24, 2020, OUII filed a response in support of the Motion. No other responses were filed.

On November 27, 2020, the ALJ issued the subject ID (Order No. 27) granting the Motion. The ID finds that the Motion complies with the Commission Rules. *See* ID at 2. In accordance with Commission Rule 210.21(a)(1), 19 CFR 210.21(a)(1), Complainant represents that “[t]here are no other agreements, written or oral, express or implied between [Complainant and Respondents] concerning the subject matter of the Investigation.” *See id.* In addition, the ID finds “no extraordinary circumstances that warrant denying the [M]otion.” *See id.* No petition for review of the subject ID was filed.

The Commission has determined not to review the subject ID. The following claims are hereby terminated from the investigation: (1) the ’753 patent as to Respondents and thus in its entirety; (2) the ’322 patent and the ’371 patent as to Ecobee; and (3) the ’497 patent as to Alarm.com.

The Commission’s vote for this determination took place on December 15, 2020.

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: December 15, 2020