

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN MOVABLE BARRIER
OPERATOR SYSTEMS AND
COMPONENTS THEREOF**

Investigation No. 337-TA-1209

**NOTICE OF COMMISSION DECISION NOT TO REVIEW AN INITIAL
DETERMINATION GRANTING AN UNOPPOSED MOTION FOR SUMMARY
DETERMINATION THAT THE ECONOMIC PRONG OF THE
DOMESTIC INDUSTRY REQUIREMENT IS SATISFIED**

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. 12) of the presiding administrative law judge (“ALJ”) granting an unopposed motion for summary determination that the economic prong of the domestic industry requirement is satisfied.

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: On August 10, 2020, 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 Overhead Door Corporation of Lewisville, Texas and GMI Holdings Inc. of Mount Hope, Ohio (collectively, “Complainants”). *See* 85 FR 48264-65 (Aug. 10, 2020). The complaint, as supplemented, 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 movable barrier operator systems and components thereof by reason of infringement of U.S. Patent Nos. 8,970,345; 9,483,935; 7,173,516 (“the ’516 patent”); 7,180,260; 7,956,718; and 8,410,895. *See id.* The notice of investigation names The Chamberlain Group, Inc. of Oak Brook, Illinois as a respondent in this investigation. *See id.* The Office of Unfair Import Investigations is not a party to the investigation. *See id.*

On February 10, 2021, the Commission terminated the '516 patent based on the withdrawal of the allegations in the complaint as to that patent. See Order No. 10 (Jan. 19, 2021), *unreviewed by Comm'n Notice* (Feb. 10, 2021).

On January 26, 2021, Complainants filed an unopposed motion for summary determination that the economic prong of the domestic industry requirement is satisfied. No response was filed. On April 26, 2021, the ALJ issued the subject ID (Order No. 12) granting Complainants' motion. No petition for review of the subject ID was filed.

The Commission has determined not to review the subject ID.

Chair Kearns notes that it remains an open question to him whether (or the extent to which) investments and expenses related to installation and service should be credited in an economic prong analysis, as these appear to be activities that a mere importer would engage in. However, even if he were to exclude these expenses, he would find the economic prong satisfied in this investigation.

The Commission's vote for this determination took place on May 26, 2021.

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: May 26, 2021