

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN ELECTRONIC STUD
FINDERS, METAL DETECTORS, AND
ELECTRICAL SCANNERS**

Investigation No. 337-TA-1221

**NOTICE OF COMMISSION DETERMINATION NOT TO
REVIEW AN INITIAL DETERMINATION GRANTING SUMMARY
DETERMINATION OF NONINFRINGEMENT WITH RESPECT TO ONE PATENT**

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) granting summary determination of noninfringement with respect to the asserted claims of U.S. Patent No. 7,148,703.

FOR FURTHER INFORMATION CONTACT: Robert Needham, Office of the General Counsel, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, telephone (202) 708-5468. 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 October 5, 2020, the Commission instituted this investigation based on a complaint filed on behalf of Zircon Corporation of Campbell, California (“Zircon”). 85 FR 62758-59 (Oct. 5, 2020). The complaint alleged 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 electronic stud finders, metal detectors, and electrical scanners by reason of infringement of one or more of certain claims of U.S. Patent Nos. 6,989,662, 8,604,771, and 9,475,185, as well as claims 1-14 of U.S. Patent No. 7,148,703 (“the ’703 patent”). *Id.* at 62759. The Commission’s notice of investigation named as respondents Stanley Black & Decker, Inc. of New Britain, Connecticut, and Black & Decker (U.S.), Inc. of Towson, Maryland (together, “Stanley”). *Id.* The Office of Unfair Import Investigations is not participating in this investigation. *Id.*

The Commission subsequently terminated the investigation with respect to claims 6 and 7

of the '703 patent. Order No. 15 (Mar. 16, 2021), *unreviewed by* Notice (Apr. 1, 2021). Accordingly, at the time of the ID, Zircon asserted that Stanley infringed claims 1-5 and 8-14 of the '703 patent.

On April 28, 2021, Stanley moved for summary determination pursuant to Commission Rule 210.18 (19 CFR 210.18) that Zircon cannot establish infringement or the technical prong of the domestic industry requirement with respect to the '703 patent, and also cannot establish the economic prong of the domestic industry requirement. On May 10, 2021, Zircon opposed the motion.

On June 15, 2021, the ALJ issued the subject ID pursuant to Commission Rule 210.42(c) (19 CFR 210.42(c)) and granted summary determination of noninfringement of the asserted claims of the '703 patent. Order No. 27 (Jun. 15, 2021). In a separate order, the ALJ denied the summary determination with respect to the economic and technical prongs of the domestic industry requirement. Order No. 26 (Jun. 15, 2021). No party petitioned for review of the subject ID.

The Commission has determined not to review the subject ID. The Commission has determined that there is no violation of section 337 with respect to the '703 patent based on Zircon's failure to demonstrate infringement of the '703 patent.

The Commission vote for these determinations took place on July 15, 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: July 15, 2021