

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

**In the Matter of**

**CERTAIN SMART THERMOSTAT  
SYSTEMS, SMART HVAC SYSTEMS,  
SMART HVAC CONTROL SYSTEMS,  
AND COMPONENTS THEREOF**

**Investigation No. 337-TA-1258**

**NOTICE OF COMMISSION DECISION NOT TO REVIEW AN  
INITIAL DETERMINATION GRANTING AN UNOPPOSED MOTION FOR  
PARTIAL TERMINATION OF THE INVESTIGATION AS TO A PATENT  
BASED ON WITHDRAWAL OF THE COMPLAINT**

**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. 16) of the presiding administrative law judge (“ALJ”) granting an unopposed motion for partial termination of the investigation as to U.S. Patent No. 8,423,322 based on the withdrawal of the allegations in the complaint as to that patent.

**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 April 2, 2021, 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 (“Complainant”). See 86 FR 17402-03 (Apr. 2, 2021). The complaint, as amended and 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 smart thermostat systems, smart HVAC systems, smart HVAC control systems, and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 8,423,322 (“the ’322 patent”); 8,019,567; 10,612,983; 8,596,550; and 8,886,488. See *id.* The notice of investigation names the following respondents: Ecobee Ltd. and Ecobee, Inc. of Toronto, Canada; Google LLC of Mountain View, California; Carrier Global Corporation of Palm Beach Gardens, Florida; Emerson Electric Co. of

St. Louis, Missouri; Honeywell International Inc. of Charlotte, North Carolina; Resideo Technologies, Inc. of Austin, Texas; Johnson Controls International, PLC of Cork, Ireland; Siemens Industry, Inc. of Buffalo Grove, Illinois; and Siemens AG of Munich, Germany. *See id.* The Office of Unfair Import Investigations is not a party to the investigation. *See id.*

The Commission previously terminated the investigation as to respondents Emerson Electric Co., Siemens Industry, Inc., Siemens AG, Honeywell International Inc., Resideo Technologies, Inc., and Carrier Global Corporation based on the withdrawal of the allegations in the complaint as to those respondents. *See* Order No. 3 (Apr. 12, 2021), *unreviewed by* Comm'n Notice (Apr. 29, 2021); Order No. 7 (May 13, 2021), *unreviewed by* Comm'n Notice (May 24, 2021); Order No. 13 (July 16, 2021), *unreviewed by* Comm'n Notice (July 30, 2021).

On May 11, 2021, the Commission amended the complaint and notice of investigation to add proposed respondent Johnson Controls Inc. and to terminate respondent Johnson Controls International, PLC. *See* Order No. 4 (Apr. 20, 2021), *unreviewed by* Comm'n Notice (May 11, 2021).

On August 4, 2021, Complainant filed an unopposed motion for partial termination of the investigation as to the '322 patent based on the withdrawal of the allegations in the complaint as to that patent. No responses to the motion were filed.

On August 5, 2021, the ALJ issued the subject ID (Order No. 16) granting the motion. The ID finds that the motion complies with the Commission Rules. *See* ID at 1-2. In accordance with Commission Rule 210.21(a), 19 CFR 210.21(a), Complainant represents that "there are no agreements, written or oral, express or implied between the parties concerning the subject matter of the investigation." *See id.* at 1. In addition, the ID finds "no extraordinary circumstances that would prevent the requested partial termination of this investigation." *See id.* at 2.

No petition for review of the subject ID was filed.

The Commission has determined not to review the subject ID. The '322 patent is terminated from the investigation.

The Commission's vote for this determination took place on August 18, 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: August 18, 2021