

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 TWO PATENTS**

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. 26) of the presiding administrative law judge (“ALJ”) granting an unopposed motion for partial termination of the investigation as to U.S. Patent Nos. 8,019,567 and 10,612,983 based on the withdrawal of the allegations in the complaint as to those patents.

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 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 (“the ’567 patent”); 10,612,983 (“the ’983 patent”); 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 respondent Johnson Controls Inc. (“JCI”) 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 6, 2021, the Commission terminated the investigation as to JCI based on settlement. *See* Order No. 17 (Aug. 6, 2021), *unreviewed by* Comm’n Notice (Aug. 18, 2021).

On August 18, 2021, the Commission terminated the investigation as to the ’322 patent based on the withdrawal of the allegations in the complaint as to that patent. *See* Order No. 16 (Aug. 5, 2021), *unreviewed by* Comm’n Notice (Aug. 18, 2021).

On November 3, 2021, Complainant filed an unopposed motion for partial termination of the investigation as to the ’567 and ’983 patents based on the withdrawal of the allegations in the complaint as to those patents. No responses to the motion were filed.

On November 8, 2021, the ALJ issued the subject ID (Order No. 26) 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 “[t]here are no agreements, written or oral, express or implied between the parties concerning the subject matter of the investigation.” *Id.* at 1. In addition, the ID finds “no extraordinary circumstances that would prevent the requested partial termination of this investigation.” *Id.* at 2.

No petition for review of the subject ID was filed.

The Commission has determined not to review the subject ID. The ’567 and ’983 patents are terminated from the investigation.

The Commission’s vote for this determination took place on December 8, 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.

A handwritten signature in black ink, appearing to read 'LRB', enclosed within a large, stylized circular flourish.

Lisa R. Barton
Secretary to the Commission

Issued: December 8, 2021