

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN SMART THERMOSTATS, LOAD
CONTROL SWITCHES, AND
COMPONENTS THEREOF**

Investigation No. 337-TA-1277

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION GRANTING A MOTION BY ALSTON & BIRD LLP TO
INTERVENE IN THIS INVESTIGATION FOR A LIMITED PURPOSE**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (“Commission”) has determined not to review an initial determination (“ID”) (Order No. 5) of the presiding administrative law judge (“ALJ”) granting a motion by Alston & Bird LLP (“Alston and Bird”) to intervene in the investigation for the limited purpose of responding to a motion to disqualify Alston and Bird from representing certain respondents in the investigation.

FOR FURTHER INFORMATION CONTACT: Panyin A. Hughes, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3179. 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, telephone (202) 205-1810.

SUPPLEMENTARY INFORMATION: On September 2, 2021, the Commission instituted this investigation based on a complaint filed by Causam Enterprises, Inc. (“Causam”) of Raleigh, North Carolina. 86 FR 49345-46 (Sept. 2, 2021). The complaint alleged violations of section 337 based on the importation into the United States, the sale for importation, or the sale within the United States after importation of certain smart thermostats, load control switches, and components thereof by reason of infringement of one or more claims of U.S. Patent Nos. 8,805,552; 9,678,522; 10,394,268; and 10,396,592. *Id.* The Commission’s notice of investigation named the following nine entities as respondents: Alarm.com Holdings, Inc. of Tysons, Virginia; Alarm.com Inc. of Tysons, Virginia; Ecobee, Inc. of Toronto, Ontario, Canada; EnergyHub, Inc. of Brooklyn, New York; Itron, Inc. of Liberty Lake, Washington; Itron Distributed Energy Management, Inc. of Liberty Lake, Washington; Resideo Smart Homes Technology (Tianjin) of Tianjin, China; Resideo Technologies, Inc. of Austin, Texas; and Xylem

Inc. of Rye Brook, New York. The Office of Unfair Import Investigations was not named as a party in this investigation. *Id.*

On September 14, 2021, Alston and Bird filed a motion under Commission Rule 210.19 to intervene in this investigation “for the sole purpose of responding to [Causam’s] motion to disqualify Alston and Bird” from representing certain respondents in the investigation. *See* ID at 1. The motion indicated that the parties do not oppose, and none of the parties filed a response to the motion.

On October 22, 2021, the ALJ issued the subject ID granting the motion. The ID observes that Commission Rule 210.19 provides that “[a]ny person desiring to intervene in an investigation” may file a motion before the administrative law judge, who “may grant the motion to the extent and upon such terms as may be proper under the circumstances.” 19 CFR 210.19.

Alston & Bird argued that Causam has placed its interests directly at issue in this matter and that Commission precedent permits Alston & Bird to intervene in this Investigation for the limited purpose of seeking to protect those interests by opposing Causam’s attempt to disqualify it from representing certain respondents. *See* ID at 1-2. Alston & Bird further argued that “no party will suffer any prejudice whatsoever as a result of [its] intervention for this limited purpose.” *See id.* The ID granted the motion, pointing to Alston & Bird’s arguments, the limited nature of the requested intervention, and the lack of opposition. *Id.* at 2. No one petitioned for review of the subject ID.

The Commission has determined not to review the subject ID. Alston & Bird is hereby an intervenor for the limited purpose of responding to Causam’s motion to disqualify it from representing certain parties in this investigation.

The Commission vote for this determination took place on November 4, 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 'Lisa R. Barton', enclosed within a large, loopy oval shape.

Lisa R. Barton
Secretary to the Commission

Issued: November 5, 2021