

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN LAPTOPS, DESKTOPS,
SERVERS, MOBILE PHONES,
TABLETS, AND COMPONENTS
THEREOF**

Investigation No. 337-TA-1280

**NOTICE OF COMMISSION DETERMINATION NOT TO
REVIEW AN INITIAL DETERMINATION TERMINATING THE INVESTIGATION
WITH RESPECT TO A PATENT BASED ON A LACK OF STANDING**

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) terminating the investigation with respect to U.S. Patent No. 7,159,766 (“the ’766 patent”) based on a lack of standing due to the patent’s unenforceability.

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) 205-2392. 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 September 7, 2021, the Commission instituted this investigation based on a complaint, as amended, filed on behalf of Sonrai Memory Ltd. of Carrickmines, Ireland (“Sonrai”). 86 FR 50170-71 (Sept. 7, 2021). 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 laptops, desktops, servers, mobile phones, tablets, and components thereof that infringe certain claims of the ’766 patent and U.S. Patent Nos. 7,325,733 and 8,193,792 (“the ’792 patent”). *Id.* at 50170. The complaint also alleged that a domestic industry exists or is in the process of being established. *Id.* The Commission’s notice of investigation named ten respondents: Amazon.com Inc. of Seattle, Washington; Dell Technologies Inc. of Round Rock, Texas; EMC Corporation of Round Rock, Texas; Lenovo Group Ltd. of Beijing, China; Lenovo (United States) Inc. of Morrisville, North Carolina; Motorola Mobility LLC of Chicago, Illinois; LG Electronics Inc. of Seoul, South Korea; LG Electronics USA, Inc. of

Englewood Cliffs, New Jersey; Samsung Electronics Co., Ltd. of Gyeonggido, South Korea; and Samsung Electronics America, Inc. of Ridgefield Park, New Jersey (collectively, “Respondents”). *Id.* at 50171. The Office of Unfair Import Investigations (“OUII”) is participating in this investigation. *Id.*

On April 7, 2022, Respondents moved for summary determination to terminate the investigation with respect to the ’766 patent, arguing that Sonrai lacks standing to assert the patent because it is unenforceable. Respondents contended that the ’766 patent is subject to a terminal disclaimer that requires that the ’766 patent be commonly owned with a reference patent (U.S. Patent No. 7,086,583) in order for the ’766 patent to be enforceable. Respondents argued that Sonrai does not own the reference patent, thus rendering the ’766 patent unenforceable. Respondents’ motion also set forth a separate argument that certain claims of the ’792 patent are invalid as indefinite. On April 18, 2022, Sonrai filed a response opposing the motion, and OUII filed a response supporting the motion.

On May 3, 2022, the ALJ issued the subject ID (Order No. 27) pursuant to Commission Rules 210.18(b) and 210.42(c) (19 CFR 210.18(b), 210.42(c)), granting summary determination to terminate the investigation with respect the ’766 patent based on Sonrai’s lack of standing to assert that patent. The ID finds that the terminal disclaimer requires common ownership of both the ’766 patent and the reference patent in order for the ’766 patent to be enforceable. The ID further finds that the ’766 patent is not enforceable because Sonrai did not own the reference patent as of the date the complaint was filed and as of the date of institution of this investigation. The ALJ also denied summary determination on the indefiniteness issue, a determination that is not before the Commission. *See* 19 CFR 210.42(c)(1) (stating that a grant of summary determination shall be by initial determination). No party petitioned for review of the subject ID.

The Commission has determined not to review the subject ID. The ’766 patent is hereby terminated from this investigation.

The Commission vote for this determination took place on June 1, 2022.

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: June 1, 2022