

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

In the Matter of

**CERTAIN VIDEO PROCESSING
DEVICES AND PRODUCTS
CONTAINING SAME**

Investigation No. 337-TA-1323

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW AN
INITIAL DETERMINATION GRANTING IN PART COMPLAINANT’S OMNIBUS
MOTION FOR SUMMARY DETERMINATION**

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. 45) of the presiding Administrative Law Judge (“ALJ”) granting in part Complainant’s omnibus motion for summary determination.

FOR FURTHER INFORMATION CONTACT: Paul Lall, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2043. 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 August 8, 2022, the Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based on a complaint filed by VideoLabs, Inc. of Palo Alto, California (“VideoLabs”). 87 FR 48198-99 (Aug. 8, 2022). The complaint, as amended and supplemented, alleged a violation of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain video processing devices and products containing the same by reason of infringement of certain claims of U.S. Patent Nos. 7,769,238 (“the ’238 patent”); 8,139,878 (“the ’878 patent”); 7,372,452 (“the ’452 patent”) and 7,372,542 (“the ’542 patent”). *Id.* at 48198. The complaint also alleged the existence of a domestic industry.

The notice of investigation named as respondents the following entities: Acer Inc. BF of New Taipei City, Taiwan, and Acer America Corporation of San Jose, California (collectively, “Acer”); ASUSTeK Computer Inc. of Taipei, Taiwan; ASUS Computer International of Fremont, California; Lenovo Group Limited of Quarry Bay, Hong Kong S.A.R. of China; Lenovo (United States) Inc. of Morrisville, North Carolina; Micro-Star International Co., Ltd. of New Taipei City, Taiwan; Motorola Mobility LLC of Chicago, Illinois; and MSI Computer Corp. of City of Industry, California. *Id.* The Commission’s Office of Unfair Import Investigations (“OUII”) is also named as a party in this investigation. *Id.*

Previously, the ’452 patent was terminated in its entirety from the investigation. Order No. 13 (Sept. 7, 2022), *unreviewed by* Comm’n Notice (Sept. 26, 2022). Also, the investigation was terminated in part as to respondents Acer based on a settlement agreement. Order No. 18 (Oct. 24, 2022), *unreviewed by* Comm’n Notice (Nov. 10, 2023). Likewise, the investigation was terminated in part as to Lenovo Group Limited, Lenovo (United States) Inc., and Motorola Mobility LLC based on settlement. Order No. 37 (Jan. 27, 2023), *unreviewed by* Comm’n Notice (Feb. 28, 2023)). Furthermore, the investigation was terminated in part as to respondents Micro-Star International Co., Ltd. and MSI Computer Corp. (collectively, “MSI”) based on settlement. Order No. 38 (Feb. 7, 2023), *unreviewed by* Comm’n Notice (March 7, 2023). In addition, the ’542 patent was terminated in its entirety from the investigation. Order No. 40 (Feb. 15, 2023), *unreviewed by* Comm’n Notice (March 22, 2023).

On March 21, 2023, Complainant filed a motion seeking summary determination that the economic prong of the domestic industry requirement has been satisfied in certain respects, that the ’238 and ’878 patents (collectively “the Asserted Patents”) are not standard essential, and that certain affirmative defenses should be dismissed. On March 31, 2023, Respondents ASUSTeK Computer Inc. and ASUS Computer International (collectively “Respondents”) filed a brief in opposition. The same day, OUII filed a response opposing summary determination as to the economic prong of the domestic industry requirement, but supporting summary determination that the Asserted Patents are not standard essential patents and that the challenged affirmative defenses should be dismissed.

On April 7, 2023, the ALJ issued the subject ID (Order No. 45) granting in part the motion for summary determination. *See* Order No. 45 (April 7, 2023). The subject ID finds that the Asserted Patents are not standard essential, and that certain affirmative defenses should be dismissed. *See* ID at 5-8. However, the ID finds that there are genuine issues of material fact regarding the economic prong of the domestic industry requirement and therefore denies summary determination. *Id.* at 4. No party petitioned for review of the ID. The only issues before the Commission for review are the issues on which the ID granted summary determination (*i.e.*, standard essentiality and certain affirmative defenses).

The Commission has determined not to review the subject ID.

The Commission vote for this determination took place on May 9, 2023.

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', written in a cursive style.

Lisa R. Barton
Secretary to the Commission

Issued: May 9, 2023