

**UNITED STATES INTERNATIONAL TRADE COMMISSION**  
**Washington, D.C. 20436**

**In the Matter of**

**CERTAIN AUTOMOTIVE MULTIMEDIA  
DISPLAY AND NAVIGATION SYSTEMS,  
COMPONENTS THEREOF, AND  
PRODUCTS CONTAINING SAME**

**Investigation No. 337-TA-657**

**NOTICE OF COMMISSION DETERMINATION TO REVIEW IN PART A FINAL  
INITIAL DETERMINATION FINDING NO VIOLATION OF SECTION 337;  
SCHEDULE FOR FILING WRITTEN SUBMISSIONS ON THE ISSUES UNDER  
REVIEW AND ON REMEDY, THE PUBLIC INTEREST AND BONDING**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined to review in part the final initial determination (“ID”) issued by the presiding administrative law judge (“ALJ”) on September 22, 2009, finding no violation of section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337, in this investigation.

**FOR FURTHER INFORMATION CONTACT:** Sidney A. Rosenzweig, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-2532. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.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:** The Commission instituted Investigation No. 337-TA-657 on September 22, 2008, based on a complaint filed by Honeywell International Inc. of Morristown, New Jersey (“Honeywell”). *73 Fed. Reg.* 54617 (Sept. 22, 2008). The complainant named the following respondents: Alpine Electronics, Inc. of Japan, and Alpine Electronics of America, Inc. of Torrance, California (collectively “Alpine”); Denso Corporation of Japan, and Denso International America, Inc. of Southfield, Michigan (collectively “Denso”); Pioneer Corporation of Japan and Pioneer Electronics (USA) Inc. of Long Beach, California (collectively “Pioneer”); and Kenwood Corporation of Japan and Kenwood USA Corporation of Long Beach,

California (collectively “Kenwood”). The complaint alleged violations of Section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337, in the importation, sale for importation, and sale within the United States after importation of certain automotive multimedia display and navigation systems, components thereof, and products containing the same that infringe certain claims of U.S. Patent Nos. 5,923,286 (“the ’286 patent”); 6,289,277 (“the ’277 patent”); 6,308,132 (“the ’132 patent”); 6,664,945 (“the ’945 patent”); 6,691,030 (“the ’030 patent”); and 6,700,482.

On March 31, 2009, the ALJ granted Honeywell’s and Kenwood’s joint motion to terminate the investigation as to Kenwood, based on a settlement agreement between those parties and pursuant to Commission rule 210.21(b), 19 C.F.R. § 210.21(b). On April 15, 2009, the ALJ granted Honeywell’s motion to terminate the investigation as to the ’030 patent pursuant to Commission rule 210.21(a)(1), 19 C.F.R. § 210.21(a)(1). On April 19, 2009, the ALJ granted Honeywell’s motion to terminate the investigation as to claims 2-7 of the ’945 patent. On April 23, 2009, the ALJ granted Honeywell’s and Denso’s joint motion to terminate the investigation as to Denso, based on a settlement agreement between those parties. On June 23, 2009, the ALJ granted Honeywell’s and Alpine’s joint motion to terminate the investigation as to Alpine, based on a settlement agreement between them. The Commission determined not to review any of these initial determinations.

As against Pioneer, the sole remaining respondent, the following asserted patents and claims remained: ’132 patent (claims 1-7, 17); ’286 patent (claim 5); ’945 patent (claim 1); ’277 patent (claims 1, 4, 5, 9, 11, 13, 20). Pioneer’s accused products include factory-installed GPS units in certain automobiles and certain after-market “head-unit” GPS devices that are mounted in automobile dashboards.

On September 22, 2009, the ALJ issued his final ID, finding no violation of section 337 by Pioneer. The ALJ found that a domestic industry in the United States exists with respect to Honeywell’s licensing program, which has a nexus to the asserted patents as required by 19 U.S.C. § 1337(a)(2) and (a)(3). The ALJ construed more than twenty contested claim terms. The ALJ found that the accused products do not literally infringe, directly or indirectly, any asserted claims of any of the asserted patents. (Honeywell did not argue infringement under the doctrine of equivalents.)

The final ID also found invalid the asserted claims of three of the four asserted patents. The ALJ determined that the asserted claims of the ’132 patent are invalid for four independent reasons. First, the term “software means” in asserted independent claims 1 and 17 is indefinite under 35 U.S.C. § 112 ¶ 2. Second, Honeywell’s demonstration of the alleged invention at a trade show more than a year before the application for that patent was filed, constituted a public-use bar under 35 U.S.C. § 102(b). Third, Honeywell’s supposed offer to sell the invention to one of its customers constituted an on-sale bar under 35 U.S.C. § 102(b). Fourth, and finally, the ALJ found that the asserted claims of the ’132 patent are anticipated by U.S. Patent No. 6,092,076 to McDonough.

The ALJ ruled that claim 5 of the '286 patent is invalid for failure of the inventor to disclose to the Patent and Trademark Office (USPTO) the best mode of practicing the patented invention, in violation of 35 U.S.C. § 112 ¶ 1. The ALJ ruled that the asserted claims of the '277 patent are anticipated, under 35 U.S.C. § 102(b), by the factory-installed navigation system in the 1998 Lexus GS 400 automobile, and its accompanying manuals. The ALJ found claim 1 of the '945 patent not invalid.

On October 5, 2009, Honeywell filed its petition, and Pioneer its contingent petition, for review of the initial determination. Together, the parties petitioned for review of the majority of the ALJ's claim constructions. Honeywell has also petitioned for review of the ALJ's findings of noninfringement of the asserted claims of the four patents, as well as of the ALJ's determinations that the asserted claims of the '132, '286 and '277 patents are invalid. Pioneer has petitioned for review of the ALJ's determination that the asserted claims of the '132 patent are not invalid for failure of the inventors to disclose to the USPTO the best mode of practicing the patented invention, in violation of 35 U.S.C. § 112 ¶ 1. Pioneer also petitions for review of the ALJ's determination that the asserted claims of the '945 patent are not invalid under 35 U.S.C. § 102 as anticipated by one of several pieces of prior art. On October 13, 2009, Honeywell and Pioneer filed responses to each other's petition, and the Commission investigative attorney filed a response to Honeywell's petition.

Having examined the record of this investigation, including the ALJ's final ID, the petitions for review, and the responses thereto, the Commission has determined to review the final ID in part. Specifically, the Commission has determined to review:

- i. The construction of the '286 patent's claim terms "inertial reference system," and "based upon the IRS position signal, the velocity of the vehicle and the acceleration of the vehicle."
- ii. The construction of the '945 patent's claim terms "radio select means," "selectable alphanumeric text portion," "selectable frequency tuning portion," and "storage select means."
- iii. The finding that the asserted claims of the '132 patent are anticipated under 35 U.S.C. § 102(b) by U.S. Patent No. 6,092,076 to McDonough.
- iv. The finding that claim 5 of the '286 patent is invalid under 35 U.S.C. § 112 ¶ 1, for failure to disclose the best mode.
- v. The finding that claim 5 of the '286 patent is not infringed by the accused products.
- vi. The finding that claim 1 of the '945 patent is not anticipated under 35 U.S.C. § 102 by the Alpine CVA-1000 system, U.S. Patent No. 6,725,231 to Obradovich, or U.S. Patent No. 7,398,051 to Bates.

- vii. The finding that the accused products do not infringe claim 1 of the '945 patent.
- viii. The finding that the accused products do not infringe the asserted claims of the '277 patent.
- ix. The finding that claim 9 of the '277 patent is anticipated under 35 U.S.C. § 102(b) by the 1998 Lexus GS 400.
- x. The finding that claim 9 of the '277 patent is not invalid under 35 U.S.C. § 103(a) over the 1998 Lexus GS 400, in view of U.S. Patent No. 6,725,231 to Obradovich, the 1997 VICS instruction manual, or the Xanavi manual.

The Commission has determined to review and to take no position on whether the asserted claims of the '132 patent are invalid because of an on-sale bar under 35 U.S.C. § 102(b). *See Beloit Corp. v. Valmet Oy*, 742 F.2d 1421, 1422-23 (Fed. Cir. 1984).

The Commission has determined not to review the remainder of the ID.

The parties are requested to brief their positions on the following five questions (and only on the following five questions) concerning the issues under review with reference to the applicable law and the evidentiary record.

For the questions regarding the '286 patent, assume the ALJ's claim constructions except as follows: "inertial reference system" means "a device that employs a plurality of inertial sensors for determining the position of the vehicle," "inertial reference system" means "a device that employs a plurality of inertial sensors for determining the position of the vehicle," and such position can be real or relative; "based upon the IRS position signal, the velocity of the vehicle and the acceleration of the vehicle" is afforded its plain meaning and is not limited to usage of error values.

For the questions regarding the '945 patent, assume the ALJ's claim constructions except as follows: "radio select means" is written in means-plus-function format with a recited function of "selecting a radio" and a corresponding structure of "a plurality of buttons"; "selectable alphanumeric text portion" means a "portion selectable by the user that contains alphanumeric text"; "selectable frequency tuning portion" means a "portion selectable by the user that contains frequency tuning information"; "storage select means" is written in means-plus-function format with a recited function of "selecting storage" and a corresponding structure of "a button."

- 1. As so construed, are the specific limits and frequency values withheld by the inventor part of the invention of claim 5 of the '286 patent for purposes of finding a violation of best mode under 35 U.S.C. § 112 ¶ 1?
- 2. As so construed, do the accused products infringe claim 5 of the '286 patent?

3. As so construed, is claim 1 of the '945 patent anticipated under 35 U.S.C. § 102 by the Alpine CVA-1000 system, U.S. Patent No. 6,725,231 to Obradovich, or U.S. Patent No. 7,398,051 to Bates?
4. As so construed, do the accused products infringe claim 1 of the '945 patent?
5. If the Commission finds that claim 1, but not claim 9, of the '277 patent is anticipated under 35 U.S.C. § 102 by the 1998 Lexus GS 400, is claim 9 invalid under 35 U.S.C. § 103(a) over the 1998 Lexus GS 400, in view of any one of the three following references: U.S. Patent No. 6,725,231 to Obradovich, the 1997 VICS instruction manual, or the Xanavi manual?

In connection with the final disposition of this investigation, the Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue one or more cease and desist orders that could result in the respondent(s) being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *In the Matter of Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843 (December 1994) (Commission Opinion).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. See Presidential Memorandum of July 21, 2005, 70 *Fed. Reg.* 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

**WRITTEN SUBMISSIONS:** The parties to the investigation are requested to file written submissions on the issues identified in this notice. Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the recommended determination by the ALJ on remedy and bonding. Complainant and the IA are

also requested to submit proposed remedial orders for the Commission's consideration. Complainant is also requested to state the dates that the patents expire and the HTSUS numbers under which the accused products are imported. The written submissions and proposed remedial orders must be filed no later than close of business on Monday, December 7, 2009. Reply submissions must be filed no later than the close of business on Monday, December 14, 2009. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Any person desiring to submit a document to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 C.F.R. § 210.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

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 sections 210.42-46 and 210.50 of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.42-46 and 210.50).

By order of the Commission.

/s/  
William R. Bishop  
Acting Secretary to the Commission

Issued: November 23, 2009