

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN GROUND FAULT CIRCUIT
INTERRUPTERS AND PRODUCTS
CONTAINING SAME**

Investigation No. 337-TA-739
(Advisory Opinion Proceeding)

**TERMINATION OF ADVISORY OPINION PROCEEDINGS BASED ON A
SETTLEMENT AGREEMENT**

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. 88) by the presiding administrative law judge (“ALJ”) terminating advisory opinion proceedings that were initiated in the above-captioned investigation by Pass & Seymour, Inc. of Syracuse, New York (“P&S”), which was not a party in the underlying investigation. The ID terminates the proceedings based on a settlement agreement between P&S and complainant Leviton Manufacturing Co., Inc. of Melville, New York (“Leviton”).

FOR FURTHER INFORMATION CONTACT: Clark S. Cheney, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2661. 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 at <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 this investigation on October 8, 2010, based on a complaint filed by Leviton. *75 Fed. Reg.* 62420 (Oct. 8, 2010). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain ground fault circuit interrupters (“GFCIs”) and products containing the same by reason of infringement of, *inter alia*, certain claims of U.S. Patent No. 7,737,809 (“the ’809 patent”). In connection with briefing to the Commission on remedy and the public interest, non-party P&S argued for a carve-out for P&S GFCIs from any

general exclusion order. The Commission rejected P&S's argument and issued, *inter alia*, a general exclusion order with respect to articles that infringe the '809 patent. Comm'n Op. 91-92 (Apr. 27, 2012).

On November 20, 2013, P&S filed a request with the Commission for an advisory opinion as to whether the relevant '809 patent claims referenced in the general exclusion order would read on certain P&S GFCIs. On February 10, 2014, the Commission instituted an advisory opinion proceeding. 79 *Fed. Reg.* 7699 (Feb. 10, 2014).

On April 4, 2014, P&S and Leviton filed a joint motion to terminate the advisory opinion proceeding based on a settlement agreement. On April 14, 2014, the Commission investigative attorney filed a response in support of the joint motion. On April 15, 2014, the ALJ issued the subject ID, terminating the advisory opinion proceeding based on the settlement agreement. The ALJ found that P&S and Leviton stated there were no other agreements between P&S and Leviton concerning the subject matter of the advisory opinion proceeding. The ALJ also found that terminating the advisory opinion proceeding based on the settlement would not impose any undue burdens on the public interest. No petitions for review of the ID were filed.

The Commission has determined not to review the ID. The advisory opinion proceeding is terminated.

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 C.F.R. Part 210).

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: May 13, 2014