

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

**In the Matter of**

**CERTAIN SET-TOP BOXES, AND  
HARDWARE AND SOFTWARE  
COMPONENTS THEREOF**

**Investigation No. 337-TA-761**

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW AN  
INITIAL DETERMINATION TERMINATING THE INVESTIGATION AS TO U.S.  
PATENT NOS. 5,731,844 AND 6,028,604**

**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. 23) of the presiding administrative law judge (“ALJ”) terminating the above-captioned investigation as to U.S. Patent Nos. 5,731,844 and 6,028,604.

**FOR FURTHER INFORMATION CONTACT:** Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3116. 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 March 2, 2011, based on a complaint filed by Microsoft Corporation of Redmond, Washington (“Microsoft”). 76 *Fed. Reg.* 11511 (March 2, 2011). The complaint alleges a violation 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 set-top boxes, and hardware and software components thereof by reason of infringement of certain claims of U.S. Patent Nos. 5,585,838; 5,731,844 (“the ‘844 patent”); 6,028,604 (“the ‘604 patent”); and 5,758,258. The complaint further alleges the existence of a domestic

industry. The Commission's notice of investigation named TiVo Inc. of Alviso, California ("TiVo") as respondent.

On September 26, 2011, Microsoft moved for a partial termination of the investigation based on the withdrawal of its allegations of infringement with respect to the '604 and '844 patents pursuant to 19 C.F.R. § 210.21(a)(1). The Commission investigative attorney filed a response supporting termination of the '604 and '844 patents. TiVo responded, *inter alia*, that it does not oppose the motion.

The ALJ issued the subject ID (Order No. 23) on October 13, 2011, granting Microsoft's motion. He found that the motion for termination satisfies Commission rule 210.21(a)(1). No party petitioned for review of the ID. The Commission has determined not to review the ID.

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 210.21 and 210.42(h) of the Commission's Rules of Practice and Procedure, 19 C.F.R. §§ 210.21, 210.42(h).

By order of the Commission.

/s/  
James R. Holbein  
Secretary to the Commission

Issued: November 3, 2011