

LUNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN OPTICAL DISC DRIVES,
COMPONENTS THEREOF, AND
PRODUCTS CONTAINING THE SAME**

Inv. No. 337-TA-897

**NOTICE OF EXTENSION OF THE DATE FOR DETERMINING WHETHER TO
REVIEW AN INITIAL DETERMINATION TERMINATING THE INVESTIGATION
BASED ON COMPLAINANT'S 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 to extend until June 9, 2015, the time for determining whether to review the presiding administrative law judge's ("ALJ") initial determination ("ID") (Order No. 135) granting respondents' motion to terminate the above-referenced investigation based on a lack of standing of complainant Optical Devices, LLC of Peterborough, New Hampshire ("Optical Devices").

FOR FURTHER INFORMATION: Cathy Chen, 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 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 this investigation on October 25, 2013, based on a Complaint filed by Optical Devices, as supplemented. *78 Fed. Reg.* 64009-10 (Oct. 25, 2013). The Complaint alleges 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 optical disc drives, components thereof, and products containing the same by reason of infringement of certain claims of U.S. Patent Nos. 6,904,007; 7,196,979; 8,416,651 (collectively, "the Kadlec Patents"); RE40,927; RE42,913; and RE43,681 (collectively, "the Wild Patents"). The Complaint further alleges the existence of a domestic industry. The Commission's Notice of Investigation named as respondents Lenovo Group Ltd. of Quarry Bay, Hong Kong and Lenovo (United States) Inc., of Morrisville, North Carolina; LG Electronics, Inc. of Seoul, Republic of Korea and LG

Electronics U.S.A., Inc. of Englewood Cliffs, New Jersey; Panasonic Corp. of Osaka, Japan and Panasonic Corporation of North America of Secaucus, New Jersey; Samsung Electronics Co., Ltd. of Seoul, Republic of Korea and Samsung Electronics America, Inc. of Ridgefield Park, New Jersey; and Toshiba Corporation of Tokyo, Japan and Toshiba America Information Systems, Inc. of Irvine, California (collectively “Respondents”). The Office of Unfair Import Investigations was not named as a party to the investigation.

The Commission later terminated the investigation as to the application of numerous claims of the asserted patents to various named respondents. *See* Notice of Commission Determination Not to Review an Initial Determination Granting Complainant’s Motions to Partially Terminate the Investigation as to Certain Patents (Aug. 8, 2014). The Commission also later terminated the investigation with respect to Samsung, Panasonic, and Nintendo based on settlement agreements. *See* Notice of Commission Determination to Grant a Joint Motion to Terminate the Investigation as to Respondents [Samsung] on the Basis of a Settlement Agreement (Sept. 2, 2014); Notice of Commission Determination Not to Review an Initial Determination Terminating the Investigation In Part as to Respondents Panasonic and Nintendo (Mar. 30, 2015).

On October 20, 2014, the ALJ issued an ID (Order No. 113) terminating the investigation based on Optical Devices’ lack of prudential standing to assert the Wild Patents and the Kadlec Patents. On December 4, 2014, the Commission determined to review Order No. 113 in part, and on review, to affirm, with modified reasoning, that Optical Devices lacked standing to assert the Wild Patents, and that it would prejudice Respondents to allow Optical Devices to join other necessary parties. The Commission vacated the finding that Optical Devices lacked standing to assert the Kadlec Patents and remanded for further proceeding.

On remand, the ALJ issued the subject ID (Order No. 135) on April 27, 2015, terminating the investigation based on Optical Devices’ lack of standing to assert the Kadlec Patents. Specifically, the ALJ found that Optical Devices does not hold all substantial rights to the Kadlec Patents and, therefore, lacks standing to maintain an action for infringement without joinder of other necessary parties.

The Commission is extending the date for determining whether to review the subject ID until June 9, 2015.

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, 2015