

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

In the Matter of

**CERTAIN ROBOTIC VACUUM
CLEANING DEVICES AND
COMPONENTS THEREOF SUCH AS
SPARE PARTS**

Investigation No. 337-TA-1057

**NOTICE OF A COMMISSION DETERMINATION TO REVIEW AN INITIAL
DETERMINATION GRANTING COMPLAINANT'S MOTION FOR SUMMARY
DETERMINATION THAT THE ECONOMIC PRONG OF THE DOMESTIC INDUSTRY
REQUIREMENT IS SATISFIED**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review an initial determination ("ID") (Order No. 39) of the presiding administrative law judge ("ALJ") granting complainant's motion for summary determination that the economic prong of the domestic industry requirement is satisfied.

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) 205-3115. 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 <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://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 under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 ("section 337"), on May 23, 2017, based on a complaint filed by iRobot Corporation of Bedford, MA ("iRobot," or Complainant). 82 F.R. 23592-93 (May 23, 2017). The complaint alleges a violation of section 337 by reason of infringement of certain claims of U.S. Patent Nos. 6,809,490; 7,155,308; 8,474,090; 8,600,553; 9,038,233; and 9,486,924. The complaint named as respondents Bissell

Homecare, Inc. of Grand Rapids, MI (“Bissell”); Hoover, Inc. of Glenwillow, OH; Royal Appliance Manufacturing Co., Inc. d/b/a TTI Floor Care North America, Inc. of Glenwillow, OH; Bobsweep, Inc. of Toronto, Canada; Bobsweep USA of Henderson, NV; The Black & Decker Corporation of Towson, MD and Black & Decker (U.S.) Inc. of Towson, MD (collectively, “Black & Decker”); Shenzhen ZhiYi Technology Co., Ltd., d/b/a iLife of Shenzhen, China; Matsutek Enterprises Co., Ltd. of Taipei City, Taiwan (“Matsutek”); Suzhou Real Power Electric Appliance Co., Ltd. of Suzhou, China (“Real Power”); and Shenzhen Silver Star Intelligent Technology Co., Ltd. of Shenzhen, China. *Id.* at 23593. The Office of Unfair Import Investigations is not a party in this investigation. *Id.* Subsequently, the investigation was terminated with respect to respondents Real Power, Order No. 23, (*not reviewed*, Notice, Oct. 18, 2017); Black and Decker, Order No. 31 (Jan. 9, 2018) (*not reviewed*, Notice, Jan. 31, 2018); and Bissell and Matsutek, Order No. 34 (Jan. 25, 2018) (*not reviewed*, Notice, February 16, 2018). The ALJ also granted an unopposed motion for summary determination of non-infringement of the ‘924 patent, Order No. 29 (Dec. 14, 2017) (*not reviewed*, Notice, January 16, 2018).

On January 8, 2018, complainant iRobot moved for summary determination that it satisfied the “economic prong” of the domestic industry requirement of 19 U.S.C. § 1337(a)(3)(A) and (B). iRobot simultaneously submitted a Memorandum and a proposed Statement of Undisputed Facts (“SUF”) in support of its motion. On January 18, 2018, respondents Shenzhen Silver Star Intelligent Technology Co., Ltd., Hoover Inc., Royal Appliance Manufacturing Co., d/b/a TTI Floor Care North America Inc., Bobsweep, Inc., and Bobsweep USA (collectively “Opposing Respondents”) filed an opposition. *See Opp.* at 1. The Opposing Respondents concurrently filed a response to iRobot’s SUF which included their own proposed findings of fact.

On February 13, 2018, the ALJ issued the subject ID (Order No. 39). The ALJ granted Complainant’s motion for summary determination that Complainant met the economic prong of the domestic industry requirement. Order No. 39 at 31. No party petitioned for review of the subject ID.

Having examined the record in this investigation, including the subject ID, the Commission has determined to review the ID in its entirety. The parties are requested to brief their positions on only the following issues, with reference to the applicable law and the evidentiary record:

- (1) With respect to the ID’s determination regarding the economic prong of the domestic industry requirement with respect to all of the asserted patents in this investigation, discuss whether Complainant is permitted to rely upon its research and development investments to satisfy the requirements under section 337(a)(3)(A) and (B) or whether such investments are only applicable to establishing a domestic industry under section 337(a)(3)(C). Explain all relevant statutory provisions, case law, legislative history, and Commission precedent pertaining to this issue.

(2) If Complainant is allowed to rely on such investments as a general matter, are all the specific types of research and development investments relied upon in this investigation appropriate?

WRITTEN SUBMISSIONS: The parties to the investigation are requested to file written submissions on the issues under review. The submissions should be concise and thoroughly referenced to the record in this investigation. The written submissions must be filed no later than the close of business on March 29, 2018. Reply submissions must be filed no later than the close of business on April 5, 2018. No further submissions on this issue will be permitted unless otherwise ordered by the Commission. Party submissions should not exceed 50 pages for the main submissions and 25 pages for the reply submissions.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 C.F.R. 210.4(f)). Submissions should refer to the investigation number ("Inv. No. 337-TA-1057") in a prominent place on the cover page and/or the first page. (*See Handbook for Electronic Filing Procedures*, http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf). Persons with questions regarding filing should contact the Secretary (202-205-2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 C.F.R. § 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with the any confidential filing. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

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.



Lisa R. Barton
Secretary to the Commission

Issued: March 15, 2018