

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN MOVABLE BARRIER
OPERATOR SYSTEMS AND
COMPONENTS THEREOF**

Investigation No. 337-TA-1118

**NOTICE OF A COMMISSION DETERMINATION TO EXTEND THE DEADLINE FOR
DETERMINING WHETHER TO REVIEW A FINAL INITIAL DETERMINATION
AND ORDER NO. 38 GRANTING SUMMARY DETERMINATION THAT THE
ECONOMIC PRONG OF DOMESTIC INDUSTRY HAS BEEN SATISFIED;
EXTENSION OF TARGET DATE FOR COMPLETION OF THE INVESTIGATION**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (the “Commission”) has determined to extend the deadline for determining whether to review the final initial determination (“ID”) in this investigation and Order No. 38 granting summary determination that the economic prong of domestic industry has been satisfied to February 14, 2020. The Commission has also determined to extend the target date for completion of the above-captioned investigation to April 20, 2020.

FOR FURTHER INFORMATION CONTACT: Carl P. Bretscher, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-2382. 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 SW, Washington, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<https://www.usitc.gov>). The public record for this investigation may be viewed on the Commission’s Electronic Docket Information System (“EDIS”) (<https://edis.usitc.gov>). Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal, telephone (202) 205-1810.

SUPPLEMENTARY INFORMATION: On June 11, 2018, the Commission instituted the present investigation based on a complaint and supplement thereto filed by The Chamberlain Group, Inc. (“Chamberlain”) of Oak Brook, Illinois. 83 FR 27020-21 (June 11, 2018). The complaint, as supplemented, alleges a violation of 19 U.S.C. 1337, as amended (“Section 337”), in the importation, sale for importation, or sale in the United States after importation of certain movable barrier operator systems that purportedly infringe one or more of the asserted claims of Chamberlain’s U.S. Patent Nos. 8,587,404 (“the ’404 patent”); 7,755,223 (“the ’223 patent”); and 6,741,052 (“the ’052 patent”). *Id.* The Commission’s notice of investigation named Nortek Security & Control, LLC of Carlsbad, CA; Nortek, Inc. of Providence, RI; and GTO Access

Systems, LLC of Tallahassee, FL (collectively, “Nortek”) as respondents. 83 FR at 270721. The Office of Unfair Import Investigations was not named as a party to this investigation. *See id.*

The Commission has partially terminated the investigation with respect to certain patent claims withdrawn by Chamberlain. *See* Order No. 16 (Feb. 5, 2019), *not rev’d*, Comm’n Notice (March 6, 2019); Order No. 27 (June 7, 2019), *not rev’d*, Comm’n Notice (June 27, 2019); Order No. 31 (July 30, 2019), *not rev’d*, Comm’n Notice (Aug. 19, 2019); Order No. 32 (Sept. 27, 2019), *not rev’d*, Comm’n Notice (Oct. 17, 2019). The only asserted claims still at issue are claim 11 of the ’404 patent, claims 1 and 21 of the ’223 patent, and claim 1 of the ’052 patent.

On November 25, 2019, the ALJ issued two IDs. The first (Order No. 38) grants summary determination that Chamberlain has satisfied the economic prong of the domestic industry requirement, pursuant to Commission Rule 210.42(c). The second is the final Initial Determination on Violation of Section 337 [“final ID”] and Recommended Determination on Remedy and Bond [“RD”]. The final ID finds no violation of Section 337 because the asserted claims of the Chamberlain patents are either invalid or not infringed, and, in the case of the ’223 patent, the technical prong of the domestic industry requirement also has not been met. Final ID at 1, 286-87. Should the Commission reverse these findings and determine there is a violation of Section 337, the RD recommends issuing limited exclusion order and cease and desist orders and imposing a bond of 100 percent during the period of Presidential review. RD at 277-86.

On December 4, 2019, Nortek filed a petition for review of Order No. 38, while Chamberlain filed a contingent petition for review of that Order. On December 9, 2019, Chamberlain filed a petition for review of the final ID, while Nortek filed a contingent petition for review of that ID. On December 16, 2019, the Commission issued a notice of its determination to extend the deadline for determining whether to review Order No. 38 to January 24, 2019, to coincide with the deadline for determining whether to review the final ID. Comm’n Notice (Dec. 16, 2019).

The Commission has determined to extend the deadline for determining whether to review the final ID and Order No. 38 to February 14, 2020. The Commission has also determined to extend the target date for completion of the investigation to April 20, 2020.

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: January 23, 2020