

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

**CERTAIN SMART THERMOSTATS,
SMART HVAC SYSTEMS, AND
COMPONENTS THEREOF**

Investigation No. 337-TA-1185

**NOTICE OF COMMISSION DECISION NOT TO REVIEW AN INITIAL
DETERMINATION GRANTING A MOTION FOR PARTIAL TERMINATION OF THE
INVESTIGATION AS TO CERTAIN RESPONDENTS BASED ON SETTLEMENT**

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. 10) of the presiding administrative law judge (“ALJ”) granting a motion to partially terminate the investigation as to respondents Daikin Industries, Ltd. of Osaka, Japan; Daikin America, Inc. of Orangeburg, New York; and Daikin North America LLC of Houston, Texas (collectively, “the Daikin Respondents”) based on settlement.

FOR FURTHER INFORMATION CONTACT: Houda Morad, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708-4716. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.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: On November 27, 2019, the Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (“section 337”), based on a complaint filed by EcoFactor, Inc. of Palo Alto, California (“EcoFactor”). *See* 84 Fed. Reg. 65421-22 (Nov. 27, 2019). The complaint alleges a violation of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain smart thermostats, smart HVAC systems, and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 8,131,497; 8,423,322; 8,498,753; and 10,018,371. *See id.* The notice of investigation names several respondents, including, the Daikin Respondents. *See id.* The Office of Unfair Import Investigations (“OUII”) is also a party to the investigation. *See id.*

On May 4, 2020, Complainant EcoFactor and the Daikin Respondents filed a joint motion to partially terminate the investigation as to the Daikin Respondents based on settlement. On May 11, 2020, OUII filed a response in support of the motion. On May 14, 2020, respondent Google LLC filed a response partially opposing the motion as to the request for limiting service of the confidential version of the settlement agreement (“the Agreement”). On May 18, 2020, the Daikin Respondents filed a motion for leave to file a reply, which was granted. *See* ID at 2 n.1.

On June 11, 2020, the ALJ issued the subject ID (Order No. 10) granting the joint motion and staying the procedural schedule as to the Daikin Respondents. The ID finds that the joint motion complies with the requirements of Commission Rule 210.21(b), 19 CFR 210.21(b). The ID also finds that good cause exists for limiting the service of the unredacted version of the Agreement to EcoFactor, the Daikin Respondents, and OUII. No petition for review of the subject ID was filed.

The Commission has determined not to review the subject ID.

The Commission’s vote for this determination took place on July 1, 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: July 1, 2020