

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 EXTENDING THE TARGET DATE**

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. 22) of the presiding administrative law judge (“ALJ”) extending the target date for completion of the investigation until August 20, 2021.

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. *See* 84 FR 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: 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”); Schneider Electric USA, Inc. of Andover, Massachusetts and Schneider Electric SE of Rueil-Malmaison, France (collectively, “the Schneider Respondents”); Ecobee Ltd. and Ecobee, Inc. of Toronto, Canada; Google LLC of Mountain View, California; Alarm.com Incorporated and

Alarm.com Holdings, Inc. of Tysons, Virginia; and Vivint, Inc. of Provo, Utah. *See id.* The Office of Unfair Import Investigations (“OUII”) is also a party to the investigation. *See id.*

On June 11, 2020, the ALJ issued an ID (Order No. 10) granting a joint motion to partially terminate the investigation as to the Daikin Respondents based on settlement. *See* Order No. 10 (June 11, 2020), *unreviewed by* Comm’n Notice (July 1, 2020). On August 10, 2020, the ALJ issued an ID (Order No. 15) granting a joint motion to terminate the investigation in part as to the Schneider Respondents based on settlement. *See* Order No. 15 (Aug. 10, 2020), *unreviewed by* Comm’n Notice (Aug. 31, 2020).

On November 2, 2020, the ALJ issued the subject ID (Order No. 22) extending the target date for completion of this investigation until August 20, 2021. The ID explains that “the ongoing pandemic has caused numerous discovery delays, the evacuation of the Commission building, and the cancellation of the evidentiary hearing in July 2020.” *See* ID at 3. The ID finds that “[e]xtension of the target date to August 20, 2021 (with a due date for the final initial determination of April 20, 2021) is necessary to accommodate the new schedule for the evidentiary hearing, and to permit the administrative law judge to hear other investigations, and to issue final initial determinations in this and other investigations.” *See id.* at 4.

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 November 17, 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: November 17, 2020