

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN VIDEO PROCESSING
DEVICES, COMPONENTS THEREOF,
AND DIGITAL SMART TELEVISIONS
CONTAINING THE SAME**

**Investigation No. 337-TA-1222
(Sanctions Proceedings I and II)**

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW AN ORDER
DENYING RESPONDENTS' MOTION FOR SANCTIONS AND TO DENY
COMPLAINANT'S MOTION FOR SANCTIONS; TERMINATION OF SANCTIONS
PROCEEDINGS**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (the "Commission") has determined not to review an order (Order No. 75) issued by the presiding administrative law judge ("ALJ") denying the respondents' motion for sanctions and to deny a motion for sanctions filed by complainant DivX, LLC. Both sanctions proceedings are hereby terminated.

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 may be viewed on the Commission's electronic docket system ("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, telephone (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted the underlying investigation on October 19, 2020, based on a complaint, as supplemented, filed by DivX, LLC ("DivX") of San Diego, California. 85 FR 66355 (Oct. 19, 2020). The complaint alleges a violation of section 337 of the Tariff Act, as amended, 19 U.S.C. 1337 ("Section 337"), from the importation, sale for importation, or sale in the United States after importation of certain video processing devices, components thereof, and digital smart televisions containing the same by reason of infringement of one or more asserted claims of U.S. Patent Nos. 10,212,486 ("the '486 patent"); 8,832,297; 10,412,141; and 10,484,749. *Id.* The complaint further alleges the existence of a domestic industry. *Id.*

The Commission's notice of investigation names the following respondents: Samsung Electronics Co., Ltd. of Gyeonggi-do, Korea; Samsung Electronics America, Inc. of Ridgefield Park, New Jersey; Samsung Electronics HCMC CE Complex Co., Ltd. of Ho Chi Minh City, Vietnam (collectively, "Samsung"); LG Electronics Inc. of Seoul, Korea; LG Electronics U.S.A., Inc. of Englewood Cliffs, New Jersey (collectively "LG"); MediaTek, Inc. of Hsinchu City, Taiwan; MediaTek USA Inc. of San Jose, California; MStar Semiconductor, Inc. of Hsinchu Hsien, Taiwan (collectively, "MediaTek"); Realtek Semiconductor Corp. of Hsinchu, Taiwan ("Realtek"); TCL Corporation of Huizhou, Guangdong, China; TCL Technology Corporation of Huizhou, Guangdong, China; TCL Electronics Holdings Ltd. of Shenzhen, Guangdong, China; TTE Technology, Inc. of Corona, California; Shenzhen TCL New Technologies Co. of Shenzhen, Guangdong, China; TCL King Electrical Appliances (Huizhou) Co. Ltd. of Huizhou, Guangdong, China; TCL MOKA International Ltd. of Sha Tin, New Territories, Hong Kong; and TCL Smart Device (Vietnam) Co., Ltd. of Bac Tan Uyen District, Binh Duong Province, Vietnam (collectively, "TCL"). *Id.* at 66356. The Office of Unfair Import Investigations was not named as a party to this investigation. *Id.*

The Commission partially terminated the investigation with respect to certain patents and patent claims withdrawn by DivX. Order No. 25 (Jan. 15, 2021), *unreviewed by* Comm'n Notice (Feb. 1, 2021); Order No. 34 (Feb. 19, 2021), *unreviewed by* Comm'n Notice (March 15, 2021); Order No. 49 (April 21, 2021), *unreviewed by* Comm'n Notice (May 10, 2021); Order No. 65 (June 28, 2021), *unreviewed by* Comm'n Notice (July 28, 2021). The Commission also partially terminated the investigation with respect to certain respondents due to settlement. Order No. 37 (terminating MediaTek), *unreviewed by* Comm'n Notice (March 12, 2021); Order No. 69 (Aug. 12, 2021) (terminating LG, Samsung), *unreviewed by* Comm'n Notice (Sept. 15, 2021).

On February 8, 2021, DivX served its initial infringement contentions, which included allegations that RealTek infringed the asserted '486 patent.

On March 12, 2021, the presiding administrative law judge ("ALJ") issued a *Markman* order construing the disputed claim terms of the asserted patents. Order No. 40 (March 12, 2021).

On July 6, 2021, DivX filed an unopposed motion to terminate the investigation with respect to RealTek due to withdrawal of the complaint. The presiding ALJ orally granted DivX's motion and instructed RealTek not to participate in the evidentiary hearing. The evidentiary hearing was held from July 8-15, 2021.

On August 4, 2022, the Commission determined not to review an initial determination (Order No. 67) terminating RealTek from the investigation due to withdrawal of the complaint. Order No. 67 (July 16, 2021), *unreviewed by* Comm'n Notice (Aug. 4, 2021).

On October 4, 2021, former respondent RealTek filed a motion for sanctions against DivX, pursuant to Commission Rules 210.4 and 210.25(b) (19 CFR §§ 210.4, 210.25(b)), for alleging misleading the ALJ and making misrepresentations regarding its infringement contentions. On October 14, 2021, DivX filed its opposition to RealTek's motion.

On April 19, 2022, DivX and TCL, the last remaining respondent, jointly moved to terminate the investigation based on a settlement agreement. On May 24, 2022, the Commission determined not to review an initial determination (Order No. 76) granting the joint termination motion. Order No. 76 (April 22, 2022), *unreviewed by* 87 FR 32184-85 (May 27, 2022).

On April 22, 2022, the ALJ issued an order denying RealTek's sanctions motion. Order No. 75 (April 22, 2022). In its May 24, 2022, notice terminating the investigation, the Commission set a briefing schedule for petitions for review of Order No. 75, pursuant to Commission Rule 210.25(d) (19 CFR 210.25(d)). 87 FR at 32185.

On June 1, 2022, RealTek filed a petition for review of Order No. 75, pursuant to the Commission's schedule. On June 8, 2022, DivX filed its opposition to RealTek's petition.

On June 16, 2022, DivX filed a motion for sanctions against RealTek stemming for its filing of its petition for review of Order No. 75. On June 27, 2022, RealTek filed its opposition to DivX's motion for sanctions.

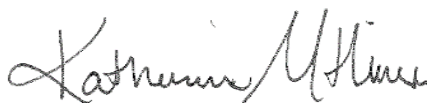
Upon consideration of Order No. 75, the parties' submissions, and the evidence of record, the Commission has determined not to review Order No. 75. The sanctions proceeding (Sanctions Proceeding I) is hereby terminated.

Upon consideration of DivX's motion for sanctions, RealTek's opposition thereto, and the evidence of record, the Commission has also determined to deny DivX's motion for sanctions. The sanctions proceeding (Sanctions Proceeding II) is hereby terminated.

The Commission voted to approve this determination on August 24, 2022.

The authority for the Commission's determinations 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.



Katherine M. Hiner
Acting Secretary to the Commission

Issued: August 24, 2022