

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN UMTS AND LTE CELLULAR
COMMUNICATION MODULES AND
PRODUCTS CONTAINING THE SAME**

Investigation No. 337-TA-1240

**NOTICE OF A COMMISSION DETERMINATION TO EXTEND THE
DEADLINE FOR DETERMINING WHETHER TO REVIEW THE
FINAL INITIAL DETERMINATION IN THIS 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”) issued by the presiding administrative law judge (“ALJ”) to July 6, 2022.

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 present investigation on January 27, 2021, based on a complaint, as supplemented, filed by Koninklijke Philips N.V. of Eindhoven, Netherlands and Philips RS North America LLC (f/k/a Respireonics, Inc.) of Pittsburgh, Pennsylvania. 86 FR 7305-06 (Jan. 27, 2021). The complaint alleges a violation of section 337 of the Tariff Act, as amended, 19 U.S.C. 1337, based on the importation, sale for importation, or sale in the United States after importation of certain UMTS and LTE cellular communication modules and products containing the same by reason of infringement of certain claims of U.S. Patent Nos. 7,831,271 (“the ’271 patent”); 8,199,711 (“the ’711 patent”); 7,554,943 (“the ’943 patent”); and 7,944,935. *Id.* The complaint further alleges a domestic industry exists or is in the process of being established. *Id.*

The Commission’s notice of investigation names the following respondents: Thales DIS AIS USA, LLC of Bellevue, Washington; Thales DIS AIS Deutschland GmbH, Bayern, Germany (collectively, “Thales”); Thales USA, Inc. Arlington, Virginia; Thales S.A., Paris,

France; Telit Wireless Solutions, Inc. of Durham, North Carolina; Telit Communications PLC, London, United Kingdom; Quectel Wireless Solutions Co., Ltd., Shanghai, China; CalAmp Corp. of Irvine, California; Xirgo Technologies, LLC of Camarillo, California; Laird Connectivity, Inc. of Akron, Ohio (all collectively, “Respondents”). *Id.* at 7306. The Office of Unfair Import Investigations (“OUII”) is also named as a party to this investigation. *Id.*

The presiding ALJ held an evidentiary hearing from October 8-13, 2021. The parties filed their opening post-hearing briefs on October 29, 2021, and their post-hearing reply briefs on November 15, 2021.

On April 1, 2022, the presiding ALJ issued the final ID at issue finding no violation of Section 337 with respect to any of the four asserted patents. In summary, the final ID finds that Philips failed to prove that any of the asserted claims of the four asserted patents is infringed, directly or indirectly, by any of the Respondents. The ID further finds that Philips failed to prove that it satisfied the technical prong of the domestic industry requirement with respect to any of the four asserted patents. The ID further finds that asserted claim 9 of the ’711 patent is invalid as indefinite and asserted claims 9 and 12 are invalid as obvious. The ID further finds that asserted claims 1-8 of the ’271 patent are invalid as indefinite and for lack of sufficient written description. The ID finds that claim 12 of the ’943 patent is invalid as indefinite. The ID further finds that all four asserted patents are unenforceable under a doctrine of implied waiver, but it rejects Respondents’ proposed defenses of express and implied licenses and equitable estoppel.

On April 13, 2022, Philips filed a petition for review of certain no-violation findings in the final ID. On April 15, 2022, Thales filed a contingent petition to review certain findings in the final ID.

On April 15, 2022, the presiding ALJ issued a recommended determination on remedy and bonding.

On April 21, 2022, OUII filed a combined response opposing both parties’ petitions for review. On April 21, 2022, Respondents filed their opposition to Philips’ petition for review. On April 25, 2022, Philips filed its opposition to Thales’ contingent petition for review.

On May 16, 2022, Philips and Thales filed public interest statements pursuant to Commission Rule 210.50(a)(4) (19 CFR 210.50(a)(4)). The Commission also received public interest statements from a number of third parties as well as from interested individuals in response to the post-RD Federal Register notice, including: ResMed Corp. (May 13, 2022); the American Sleep Apnea Association (May 16, 2022); App Association (May 16, 2022); Continental Automotive Systems, Inc., Denso Corporation, Bury S.p.z.o.o, the Alliance for Automotive Innovation, and the European Association of Auto Suppliers (May 16, 2022); Congressmen Scott H. Peters and Congressman Bryan G. Steil (May 16, 2022); Federal Trade Commission Chair Lina M. Khan and Commissioner Rebecca Kelly Slaughter (May 16, 2022); Professor Michael A. Carrier (May 16, 2022); Dr. Kathleen Sarmiento, M.D (May 16, 2022); Dr. Patrick J. Stollo, Jr., MD (May 8, 2022), Dr. Sanjay R. Patel, MD (May 5, 2022), and Dr. Sunil Sharma, M.D., Dr. Robert Stansbury, M.D., and Chris Pham, D.O. of the West Virginia University Sleep Evaluation Center (May 3, 2022). 87 FR 23884 (April 21, 2022).

The Commission has determined to extend the deadline for determining whether to review the final ID to July 6, 2022.

The Commission voted to approve this determination on June 16, 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.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', enclosed in a circular flourish.

Lisa R. Barton
Secretary to the Commission

Issued: June 17, 2022