

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN NETWORK EQUIPMENT
SUPPORTING NETCONF**

Investigation No. 337-TA-1391

**NOTICE OF A COMMISSION DETERMINATION TO DENY
COMPLAINANT’S PETITION FOR RECONSIDERATION**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (“Commission”) has determined to deny Complainant Optimum Communications Services, Inc.’s Petition Under 19 CFR 210.47.

FOR FURTHER INFORMATION CONTACT: Jonathan D. Link, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, telephone (202) 205-3103. 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: The Commission instituted this investigation on March 4, 2024, based on a complaint filed by Optimum Communications Services, Inc. of Jersey City, New Jersey (“Complainant”). 89 FR 15611-12 (Mar. 4, 2024). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain network equipment supporting NETCONF by reason of infringement of certain claims of U.S. Patent Nos. 10,567,474 and 10,848,546 (“Asserted Patents”). *Id.* The complaint further alleges that a domestic industry exists. *Id.* The Commission’s notice of investigation named as respondents: Changsha Silun Network Technology Co., Ltd. of Hunan, China; Hunan Maiqiang Network Technology Company Limited of Hunan, China; Hunan Zikun Information Technology Co., Ltd. of Hunan, China; and Guangzhou Qiton Electronics Technology Co., Ltd. of Guangdong, China (collectively, “Respondents”). *Id.* The Office of Unfair Importation Investigation (“OUII”) is participating as a party in this investigation. *Id.*

On June 13, 2024, the Commission found the Respondents in default for failing to respond to the complaint, notice of investigation, or previous order to show cause (Order No. 8). Order No. 9, *unreviewed by*, Comm'n Notice (June 13, 2024).

On June 28, 2024, Complainant filed a motion for summary determination of violation and requested the issuance of a general exclusion order. On July 10, 2024, OUII filed a response opposing the summary determination motion.

On August 8, 2024, third party Xenogenic Development LLC ("Xenogenic") filed a motion to intervene, stay the proceedings on the merits, and dismiss the investigation. Complainant opposed the motion and OUII supported Xenogenic's intervention and termination of the investigation but opposed staying the investigation.

On September 19, 2024, the Commission determined not to review an initial determination declassify OUII's response to Complainant's motion for summary determination and supporting memorandum. Order No. 13, *unreviewed by*, Comm'n Notice (September 20, 2024).

On October 18, 2024, the ALJ issued Order No. 19 granting-in-part OUII's motion for summary determination and finding no violation. On October 25, 2024, Complainant filed a petition for review of the ID in Order No. 19. On November 1, 2024, OUII filed a response to Complainant's petition for review of the ID in Order No. 19.

On November 1, 2024, the ALJ issued Order No. 21 attaching a redacted version of Order No. 19 consistent with the redactions that OUII represented were requested by Complainant. Order No. 21 required Complainant to file any corrections to the proposed redactions by November 5, 2024. Complainant did not file a response. On November 8, 2024, the ALJ issued the redacted version as the current public version of Order No. 19.

On November 8, 2024, the ALJ issued Order No. 22 declassifying all of Order No. 19. The ALJ found that the proposed redactions by Complainant to OUII were not confidential information and were duplicative of material in Complainant's publicly filed petition for review of Order No. 19. Order No. 22, *unreviewed by*, Comm'n Notice (Dec. 20, 2024).

On November 8, 2024, the ALJ also issued Order No. 23 in response to the briefing requested in Order No. 20, granting in part Xenogenic's motion to intervene, determining all remaining motions are moot, and terminating the investigation. On November 9, 2024, Complainant filed a petition to review Order No. 23. On November 18, 2024, OUII filed a response to Complainant's petition of Order No. 23.

On December 4, 2024, the Commission determined to review and affirm, with supplementation, Order No. 19 granting summary determination finding no violation of section 337. Order No. 19 (Oct. 18, 2024), *reviewed and affirmed by*, Comm'n Notice (Dec. 4, 2024). The Commission further reviewed and vacated Order No. 23. *Id.* Finally, the Commission granted in part third party Xenogenic's motion to intervene for the limited purpose of addressing ownership of the Asserted Patents. *Id.*

On December 6, 2024, Complainant filed a petition under Commission Rule 210.47, requesting that the Commission “reconsider its Dec 4, 2024 Notice on this Investigation, and to consequently consider the Petition for review of the Order 23 (EDIS Doc. Id 836871) and order the Investigation to proceed to the trial.” On December 12, 2024, OUII filed a response opposing the petition for reconsideration.

Upon review of Complainant’s petition, the Commission has determined to deny the petition in its entirety based on Complainant’s failure to identify a “new question” that would warrant reconsideration under Commission Rule 210.47.

The Commission vote for this determination took place on January 17, 2025.

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.

A handwritten signature in black ink, appearing to read "Lisa R. Barton", enclosed in a large, stylized oval flourish.

Lisa R. Barton
Secretary to the Commission

Issued: January 17, 2025