

**UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.**

In the Matter of

**CERTAIN THREE-DIMENSIONAL
CINEMA SYSTEMS AND
COMPONENTS THEREOF**

Investigation No. 337-TA-939

**NOTICE OF COMMISSION DECISION TO REVIEW-IN-PART AN
INITIAL DETERMINATION GRANTING-IN-PART A MOTION FOR A
SUMMARY DETERMINATION THAT A DOMESTIC INDUSTRY EXISTS,
AND, ON REVIEW, TO REVERSE AN ISSUE**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review-in-part the presiding administrative law judge's ("ALJ") initial determination ("ID") granting-in-part complainant RealD, Inc.'s motion for a summary determination that a domestic industry exists. On review, the Commission reverses one issue.

FOR FURTHER INFORMATION CONTACT: Robert Needham, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-5468. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.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 December 12, 2014, based on a complaint filed by RealD, Inc., of Beverly Hills, California ("RealD"). 79 *Fed. Reg.* 73902-03. The complaint 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, and the sale within the United States after importation of certain three-dimensional cinema systems and components thereof that infringe certain claims of U.S. Patent Nos. 7,905,602; 8,220,934; 7,857,455; and

7,959,296. *Id.* at 73902. The Commission’s notice of investigation named as respondents MasterImage 3D, Inc., of Sherman Oaks, California, and MasterImage 3D Asia, LLC, of Seoul, Republic of Korea (together, “MasterImage”). *Id.* at 73903. The Office of Unfair Import Investigations was not named as a party to the investigation. *Id.*

On July 14, 2015, RealD moved for a summary determination that it satisfied both the economic and technical prongs of the domestic industry requirement of 19 U.S.C. § 1337. On July 24, 2015, MasterImage opposed the motion.

On August 20, 2015, the ALJ issued Order No. 9, which granted RealD’s motion in-part, finding that RealD satisfied the economic prong of the domestic industry requirement under subsections (a)(3)(A), (B), and (C) of section 337(a)(3). He also denied the motion in-part, finding that genuine issues of material fact precluded granting summary determination on the technical prong. Only the portion of Order No. 9 granting summary determination is an initial determination (ID) under 19 C.F.R. § 210.42(c).

On August 28, 2015, MasterImage petitioned for review of the subject ID. On September 4, 2015, RealD opposed the petition.

Having examined the record of this investigation, including the ID, the petition for review, and the response thereto, the Commission has determined to review the ID in part. The Commission has determined to review the ALJ’s summary determination that RealD satisfied the economic prong of the domestic industry requirement through significant investments in equipment. *See* 19 C.F.R. § 210.45(c). The Commission finds that there are genuine issues of material fact as to whether RealD’s investments in equipment are significant under *Lelo Inc. v. Int’l Trade Comm’n*, 786 F.3d 879, 883-84 (Fed. Cir. 2015). Thus, upon review, the Commission reverses the ALJ’s summary determination with respect to RealD’s investments in equipment.

The Commission has determined not to review the remaining findings in the ID, including the findings that RealD has shown that it has satisfied the economic prong of the domestic industry through its significant investments in plant, significant investments in labor, and substantial investments in engineering, research, and development.

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 C.F.R. Part 210).

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: September 25, 2015