

order, cease and desist orders, and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

- (i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;
- (ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;
- (iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;
- (iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and
- (v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number ("Docket No. 3501") in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, Electronic Filing Procedures<sup>1</sup>). Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, <https://edis.usitc.gov>). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding filing should contact the Secretary at [EDIS3Help@usitc.gov](mailto:EDIS3Help@usitc.gov).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,<sup>2</sup> solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.<sup>3</sup>

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

<sup>1</sup> Handbook for Electronic Filing Procedures: [https://www.usitc.gov/documents/handbook\\_on\\_filing\\_procedures.pdf](https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf)

<sup>2</sup> All contract personnel will sign appropriate nondisclosure agreements.

<sup>3</sup> Electronic Document Information System (EDIS): <https://edis.usitc.gov>.

Issued: October 14, 2020.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2020–23103 Filed 10–16–20; 8:45 am]

BILLING CODE 7020–02–P

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1158]

### Certain Digital Video Receivers, Broadband Gateways, and Related Hardware and Software Components; Commission Decision To Review in Part an Initial Determination Finding a Violation of Section 337; Request for Written Submissions on the Issues Under Review and Remedy, the Public Interest, and Bonding

**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 a final initial determination ("ID") of the presiding administrative law judge ("ALJ") finding a violation of section 337. The Commission requests written submissions from the parties on the issues under review and from the parties, interested government agencies, and interested persons on the issues of remedy, the public interest, and bonding, under the schedule set forth below.

#### FOR FURTHER INFORMATION CONTACT:

Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–2310. 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](mailto: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:** On May 29, 2019, the Commission instituted this investigation based on a complaint filed by Rovi Corporation and Rovi Guides, Inc. (collectively, "Rovi"), both of San Jose, California. 84 FR 24814–15 (May 29, 2019). The complaint, as supplemented, alleged violations of section 337 of the Tariff Act of 1930, as

amended, 19 U.S.C. 1337, based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain digital video receivers, broadband gateways, and related hardware and software components by reason of infringement of certain claims of U.S. Patent Nos. 7,779,445 (“the ‘445 patent”); 7,200,855 (“the ‘855 patent”); 8,156,528 (“the ‘528 patent”); 8,001,564 (“the ‘564 patent”); 7,301,900 (“the ‘900 patent”); and 7,386,871 (“the ‘871 patent”). The complaint further alleged the existence of a domestic industry. The Commission’s notice of investigation named as respondents Comcast Corporation, Comcast Cable Communications, LLC, Comcast Cable Communications Management, LLC, and Comcast Holdings Corporation (collectively, “Comcast”), all of Philadelphia, Pennsylvania. The Office of Unfair Import Investigations (“OUII”) is partially participating in the investigation. The ‘528, ‘855, and ‘445 patents remain in the investigation and the ‘564, ‘900, and ‘871 patents have been terminated from the investigation. Order No. 18 (Sept. 30, 2019), *unreviewed by Comm’n Notice* (Oct. 15, 2019).

On July 14, 2020, the ALJ issued a written *Markman* Order. *See* Order No. 41 (Jul. 14, 2020).

On July 28, 2020, the ALJ issued the final ID finding a violation of section 337 as to the ‘528 and ‘855 patents based on infringement of the asserted claims by Comcast’s accused products. Specifically, the ID found that: (1) Comcast’s accused products infringe claims 13, 27, and 30 of the ‘528 patent and claims 60 and 63 of the ‘855 patent; (2) Comcast’s accused products do not infringe asserted claim 5 of the ‘445 patent; (3) the asserted claims of the ‘528 and ‘855 patents are not invalid; (4) claims 5 and 15 of the ‘445 patent are invalid as anticipated under 35 U.S.C. 102(g)(2) by Comcast’s VOD Vision System; and (5) Rovi has satisfied both prongs of the domestic industry requirement. The final ID also included the ALJ’s recommended determination, which recommended the issuance of a limited exclusion order directed to Comcast’s infringing products and a cease and desist order directed to Comcast.

On August 10, 2020, Rovi petitioned, and Comcast petitioned and contingently petitioned, for review of the final ID. On August 18, 2020, Rovi and Comcast each filed a response in opposition to the other party’s petition for review.

Having reviewed the record of the investigation, including the parties’ petitions and responses thereto, the Commission has determined to review the subject ID in part. Specifically, the Commission has determined to review: (1) Order No. 41’s and the ID’s construction of the claim limitations: “same functions,” “personal video recorder device,” “personal video recorder-compliant device,” “personal video recorder functionality,” and “first interactive television program guide . . . are implemented” (“where the first interactive television program guide and the second interactive program guide . . . are distinctly implemented”) of asserted claims 13, 27, and 30 of the ‘528 patent; (2) the ID’s finding that Comcast’s Accused Products infringe the asserted claims of the ‘528 patent and that the asserted claims are not invalid; (3) the ID’s finding that Rovi has satisfied the technical prong of the domestic industry requirement with respect to the ‘528 patent; (4) the ID’s identification of Comcast’s products that infringe the asserted claims of the ‘855 patent; (5) the ID’s finding that Comcast’s redesigns for the ‘855 patent are not sufficiently fixed in design to warrant adjudication; (6) the ID’s finding that the Accused Products are not “articles that infringe” claim 5 of the ‘445 patent; (7) the ID’s finding that claims 5 and 15 of the ‘445 patent are invalid as anticipated under 35 U.S.C. 102(g)(2) by Comcast’s VOD Vision System; (8) the ID’s finding that Comcast has engaged in sales within the United States after importation of accused products in accordance with section 337(a)(1)(B); and (9) the ID’s finding that Rovi satisfied the economic prong of the domestic industry requirement. The Commission has determined not to review the remainder of the ID.

The parties are requested to brief their positions with reference to the applicable law and the evidentiary record regarding the questions provided below:

(1) Please explain, with citations to the record, how construing the limitation “same functions” of claims 13, 27 and 30 of the ‘528 patent to mean “all of the same functions” would impact the findings on infringement.

(2) Please explain, with citations to the record, how construing the limitations “personal video recorder device,” “personal video recorder-compliant device,” and “personal video recorder functionality” of claims 13, 27 and 30 of the ‘528 patent not to require (1) recording to local storage and (2) the automatic recording of programs that users are watching in real-time would

impact the findings on infringement and validity.

(3) Please explain, with citations to the record, how construing the limitation “first interactive television program guide . . . are implemented” of claims 13, 27 and 30 of the ‘528 patent to “include the components of a system that can manipulate guide data and user inputs to provide an interactive, visual display of media listings and other guidance functions” would impact the findings on infringement.

(4) Please explain whether (a) the documents provided by SeaChange (RX-0053), (b) the 10/24/02 *Baltimore Sun* article (RX-60), or (c) Ms. Scilingo’s own contemporaneous documents, individually or in combination, are legally sufficient to corroborate Ms. Scilingo’s testimony with respect to 35 U.S.C. 102(g). Discuss any relevant case law for each.

(5) Please address whether the practice in the United States of the method of claim 5 of the ‘445 patent by Comcast’s X1 System using an accused set-top box along with other components makes the box an “article that—infringes” under section 337(a)(1)(B), taking into account the nature of the accused product, the combination with other components, and the specific limitations of claim 5. Please support your response with reference to the statutory language, legislative history and Commission and court precedent regarding the scope of section 337.

(6) With respect to whether there is a violation concerning the ‘445 patent, how should the fact that an article would be an “article that—infringes” based on an importer’s indirect infringement (through supply of an imported article to an infringing third party that directly infringes an asserted claim) inform the Commission’s consideration of whether the same article is an “article that—infringes” based on the importer’s (own) direct infringement?

(7) Please comment on the following possible approaches to evaluating whether an importer’s own practice of a patented method using a combination of an imported article with other articles may give rise to a section 337 violation. Also discuss whether, under each of these approaches, there would be a violation of section 337 with respect to claim 5 of the ‘445 patent given the facts in this investigation.

a. drawing guidance from the provisions of 35 U.S.C. 271(b), concerning inducement of infringement, and therefore examining, *inter alia*, whether the imported article is a device

distributed with the purpose of bringing about infringing acts.

b. drawing guidance from the provisions of 35 U.S.C. 271(c), concerning contributory infringement, (which is one of the few parts of section 271 that specifically references components of an infringing invention), and therefore examining:

(i) whether the imported article is a material part of the invention, known to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

(ii) whether the imported article is a material part of the invention and specifically designed for use in the combination that practices the patented invention.

(8) For each of the two redesigns individually and in combination, please explain whether Rovi has preserved arguments as to infringement in light of its admissions of noninfringement. *See* Tr. at 1402 (Kamprath). If so, please explain whether each of the two redesigns, individually and in combination, infringe or do not infringe the asserted claims of the '855 patent. Please explain whether each redesign alters the accused products physically or alters the code that resides on the accused products to turn off the MoCA functionality. Please also explain whether any redesigned articles have been imported, and whether, for redesigned articles that have yet to be imported, whether the redesigns would be imported with the physical alterations and/or altered code. (add line space)

(9) Please explain, on a patent-by-patent basis, how Complainants' claimed investments are significant under Section 337(a)(3)(A) and (B). *See Lelo Inc. v. Int'l Trade Comm'n*, 786 F.3d 879, 883–84 (Fed. Cir. 2015); *Certain Carburetors and Products Containing Such Carburetors*, Inv. No. 337-TA-1123, Comm'n Op. at 17–19 (Oct. 28, 2019).

In connection with the final disposition of this investigation, the statute authorizes issuance of, *inter alia*, (1) an exclusion order that could result in the exclusion of the subject articles from entry into the United States; and/or (2) cease and desist orders that could result in the respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States

for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843, Comm'n Op. at 7–10 (December 1994).

The statute requires the Commission to consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on: (1) The public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve, disapprove, or take no action on the Commission's determination. *See* Presidential Memorandum of July 21, 2005. 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

**Written Submissions:** The parties to the investigation are requested to file written submissions on the issues under review that specifically address the Commission's questions set forth in this notice.<sup>1</sup> The submissions should be concise and thoroughly referenced to the record in this investigation. Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and

bonding. Such submissions should address the recommended determination by the ALJ on remedy and bonding.

In their initial submissions, Complainants are also requested to identify the remedy sought and Complainants and OUII are requested to submit proposed remedial orders for the Commission's consideration. Complainants are also requested to state the dates that the asserted patents expire, to provide the HTSUS subheadings under which the accused products are imported, and to supply the identification information for all known importers of the products at issue in this investigation. The written submissions and proposed remedial orders must be filed no later than close of business on October 23, 2020. Reply submissions must be filed no later than the close of business on October 30, 2020. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. The Commission's paper filing requirements in 19 CFR 210.4(f) are currently waived. 85 FR 15798 (March 19, 2020). Submissions should refer to the investigation number ("Inv. No. 337-TA-1158") in a prominent place on the cover page and/or the first page. (*See Handbook on Filing Procedures*, [https://www.usitc.gov/documents/handbook\\_on\\_filing\\_procedures.pdf](https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf)). Persons with questions regarding filing should contact the Secretary at (202) 205–2000.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 210.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the

<sup>1</sup> In seeking briefing on these issues, the Commission has not determined to excuse any party's noncompliance with Commission rules and the ALJ's procedural requirements, including requirements to present issues in petitions and pre-hearing and post-hearing submissions. *See, e.g.*, Order No. 2 (June 7, 2019) (ground rules); 19 CFR 210.43(a)(2). The Commission may, for example, decline to disturb certain findings in the final ID upon finding that issue was not presented in a timely manner to the ALJ or to the Commission.

programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The Commission vote for this determination took place on October 9, 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.

Issued: October 13, 2020.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2020-23020 Filed 10-16-20; 8:45 am]

BILLING CODE 7020-02-P

## INTERNATIONAL TRADE COMMISSION

[Investigation No. TA-201-77]

### Fresh, Chilled, or Frozen Blueberries; Institution of Investigation, Scheduling of Public Hearings, and Determination That the Investigation Is Extraordinarily Complicated, Amendment

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice; amendment.

**SUMMARY:** The Commission published a notice in the **Federal Register** of October 9, 2020, concerning the institution and scheduling of investigation No. TA-201-77 pursuant to section 202 of the Trade Act of 1974 ("the Act") to determine whether fresh, chilled, or frozen blueberries are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported articles. 85 FR 64162. This amended notice corrects a Harmonized Tariff Schedule of the United States ("HTSUS") statistical reporting number provided in the original notice, and corrects the citation to the statutory authority for the notice.

**FOR FURTHER INFORMATION CONTACT:** Jordan Harriman (202-205-2610), Office of Investigations, U.S. International

Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<https://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>.

#### SUPPLEMENTARY INFORMATION:

**Amendment.**—In the section of the original notice entitled "Background," in FR Doc. 2020-22423, on page 64163, in the first column, line 20, replace HTSUS statistical reporting number "0811.90.2010" with "0811.90.2040". Accordingly, the amended description of the imported articles should read as follows. "The imported articles covered by this investigation are fresh, chilled, or frozen blueberries ("blueberries"). For Customs purposes, the blueberries covered by the investigation are provided for under Harmonized Tariff Schedule of the United States ("HTSUS") statistical reporting numbers 0810.40.0024; 0810.40.0026; 0810.40.0029; 0811.90.2024; 0811.90.2030; and 0811.90.2040. These HTSUS numbers are provided for convenience, and the written description of the scope is dispositive."

In addition, in FR Doc. 2020-22423, on page 64164, in the first column, line 58, replace "section 203(b)(3)" with "section 202(b)(3)." Accordingly, the last paragraph of the notice should read as follows:

**Authority:** This investigation is being conducted under authority of Section 202 of the Act; this notice is published pursuant to section 202(b)(3) of the Act."

By order of the Commission.

Issued: October 13, 2020.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2020-23017 Filed 10-16-20; 8:45 am]

BILLING CODE 7020-02-P

## JUDICIAL CONFERENCE OF THE UNITED STATES

### Advisory Committee on Criminal Rules; Hearing of the Judicial Conference

**AGENCY:** Advisory Committee on the Federal Rules of Criminal Procedure, Judicial Conference of the United States.

**ACTION:** Notice of cancellation of open hearing.

**SUMMARY:** The following remote public hearing on proposed amendments to the Federal Rules of Criminal Procedure has been canceled: Criminal Rules Hearing on November 4, 2020.

#### FOR FURTHER INFORMATION CONTACT:

Rebecca A. Womeldorf, Secretary, Committee on Rules of Practice and Procedure of the Judicial Conference of the United States, Thurgood Marshall Federal Judiciary Building, One Columbus Circle NE, Suite 7-300, Washington, DC 20544, Telephone (202) 502-1820, [RulesCommittee\\_Secretary@ao.uscourts.gov](mailto:RulesCommittee_Secretary@ao.uscourts.gov).

#### SUPPLEMENTARY INFORMATION:

Announcements for this hearing were previously published in 85 FR 48562.

**Authority:** 28 U.S.C. 2073.

Dated: October 14, 2020.

**Rebecca A. Womeldorf,**

*Chief Counsel, Rules Committee Staff.*

[FR Doc. 2020-23051 Filed 10-16-20; 8:45 am]

BILLING CODE 2210-55-P

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

[Docket No. OSHA-2011-0055]

### Steel Erection Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Request for public comments.

**SUMMARY:** OSHA solicits public comments concerning the proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements contained in the Steel Erection Standard.

**DATES:** Comments must be submitted (postmarked, sent, or received) by December 18, 2020.

#### ADDRESSES:

**Electronically:** You may submit comments and attachments electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

**Facsimile:** If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693-1648.