

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

In the Matter of

**CERTAIN VIDEO DISPLAYS,
COMPONENTS THEREOF, AND
PRODUCTS CONTAINING SAME**

Investigation No. 337-TA-687

**NOTICE OF COMMISSION DETERMINATION TO REVIEW A FINAL INITIAL
DETERMINATION IN PART AND SET A SCHEDULE FOR FILING WRITTEN
SUBMISSIONS ON THE ISSUES UNDER REVIEW AND ON 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 the final initial determination (“ID”) issued by the presiding administrative law judge (“ALJ”) on September 17, 2010, in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW, Washington, D.C. 20436, telephone (202) 205-3116. 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, SW, Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <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: This investigation was instituted on September 16, 2009, based on a complaint filed by LG Electronics, Inc. (“LG”), alleging a violation of section 337 in the importation, sale for importation, and sale within the United States after importation of certain video displays, components thereof, or products containing same that infringe one or more of claims 24 and 25 of U.S. Patent No. 5,790,096; claims 1-9 of U.S. Patent No. 5,537,612; claim 1 of U.S. Patent No. 5,459,522; claims 1-5 and 7-16 of U.S. Patent No. 7,154,564. 74 *Fed. Reg.* 47616 (2009) Complainant named Funai Electric Company, Ltd. of Osaka, Japan, Funai Corporation, Inc. of Rutherford, New Jersey, P&F USA, Inc. of Alpharetta, Georgia (collectively, “Funai”), and Vizio, Inc. of Irvine, California (“Vizio”) as respondents. On January 8, 2010, the

presiding ALJ issued an ID granting Complainant's motion for leave to file a second amended complaint and amend the Notice of Investigation to, *inter alia*, add AmTran Technology Co. Ltd. and AmTran Logistics, Inc. as respondents to the investigation. Order No. 12 (unreviewed by the Commission). Subsequently, respondents Funai Electric Company, Ltd., Funai Corporation, Inc., and P&F USA, Inc. were terminated from the investigation based on a settlement agreement.

The evidentiary hearing on violation of Section 337 was held from June 9, 2010 through June 21, 2010. On September 17, 2010, the ALJ issued his final ID finding a violation of section 337. All the parties to the investigation, including the Commission investigative attorney (IA), filed timely petitions for review of various portions of the final ID, as well as timely responses to the petitions.

Having examined the record in this investigation, including the ALJ's final ID, the petitions for review, and the responses thereto, the Commission has determined to review the ID in part. In particular, the Commission has determined to review: (1) the ID's finding that dependent claims 4, 6, and 7 of the '612 patent are not invalid as anticipated or obvious; (2) the ID's findings and conclusions with respect to independent claim 5 of the '564 patent. The Commission has determined not to review the remainder of the final ID.

On review, the Commission requests briefing on the above-listed issues based on the evidentiary record. The Commission is particularly interested in responses to the following questions:

(1) With respect to the '612 patent:

- (a) Does the record evidence show, clearly and convincingly, that claim 4 is anticipated by: (i) the CableData HTU device (RPX-4); (ii) U.S. Patent No. 4,896,354 ("the '354 patent"); and (iii) U.S. Patent No. 4,930,160 ("the '160 patent")?
- (b) Does the record evidence show, clearly and convincingly, that claim 4 is obvious in view of any of the above prior art references alleged to anticipate claim 4?
- (c) Does the record evidence show, clearly and convincingly, that claim 6 is anticipated by: (i) the '160 patent; (ii) U.S. Patent No. 4,510,623 ("the '623 patent"); (iii) U.S. Patent No. 5,033,085 ("the '085 patent"); and (iv) the '354 patent?
- (d) Does the record evidence show, clearly and convincingly, that claim 6 is obvious in view of any of the above prior art references alleged to anticipate claim 6?
- (e) Does the record evidence show, clearly and convincingly, that claim 7 is anticipated by: (i) the '160 patent; (ii) the '623 patent; (iii) the '085 patent; and (iv) the '354 patent?

- (f) Does the record evidence show, clearly and convincingly, that claim 7 is obvious in view of any of the above prior art references alleged to anticipate claim 7?

(2) With respect to the '564 patent:

- (a) Does the record evidence show that claim 5 is infringed?

In connection with the final disposition of this investigation, the Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue one or more cease and desist orders that could result in the respondent 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 are likely to do so. For background, see *In the Matter of Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843 (Dec. 1994) (Commission Opinion).

If the Commission contemplates some form of remedy, it must 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 or disapprove the Commission's action. See Presidential Memorandum of July 21, 2005. 70 *Fed. Reg.* 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. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed.

WRITTEN SUBMISSIONS: The parties to the investigation are requested to file written submissions on the issues under review. 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. Complainant and the Commission investigative attorney are also requested to submit proposed remedial orders for the Commission's consideration. Complainant is further requested to provide the expiration date of the involved patents and state the HTSUS numbers under which the accused articles are imported. The written submissions and proposed remedial orders must be filed no later than the

close of business on December 3, 2010. Reply submissions must be filed no later than the close of business on December 10, 2010. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. 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* section 201.6 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 201.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

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 sections 210.42-.46 of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.42-.46).

By order of the Commission.

A handwritten signature in black ink, appearing to read "Marilyn R. Abbott". The signature is fluid and cursive, with a large initial "M" and a long, sweeping underline.

Marilyn R. Abbott
Secretary to the Commission

Issued: November 19, 2010

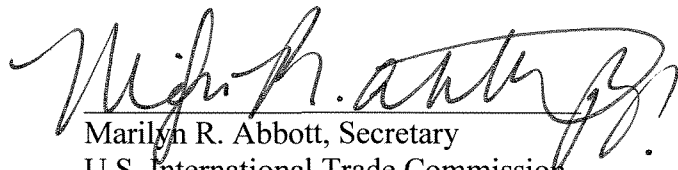
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337-TA-687

CERTIFICATE OF SERVICE

I, Marilyn R. Abbott, hereby certify that the attached **NOTICE OF COMMISSION DETERMINATION TO REVIEW A FINAL INITIAL DETERMINATION IN PART AND SET A SCHEDULE FOR FILING WRITTEN SUBMISSIONS ON THE ISSUES UNDER REVIEW AND ON REMEDY, THE PUBLIC INTEREST, AND BONDING** has been served by hand upon the Commission Investigative Attorney, Jeffrey T. Hsu, Esq., and the following parties as indicated, on

NOV 19 2010



Marilyn R. Abbott, Secretary
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**On Behalf of Complainants LG Electronics, Inc. and LG
Twin Towers:**

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**On Behalf of Respondents Vizio, Inc.; AmTRAN
Technology Co., Ltd.; and, AmTRAN Logistics, Inc.:**

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