

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

In the Matter of

Investigation No. 337-TA-712

**CERTAIN DIGITAL SET-TOP BOXES
AND COMPONENTS THEREOF**

**NOTICE OF COMMISSION DETERMINATION TO GRANT RESPONDENT'S
PETITION FOR RECONSIDERATION OF THE COMMISSION DECISION NOT TO
REVIEW A FINAL INITIAL DETERMINATION FINDING A VIOLATION OF
SECTION 337; TERMINATION OF THE INVESTIGATION WITH A FINDING OF NO
VIOLATION**

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 reconsider its decision not to review the final initial determination ("ID") issued by the presiding administrative law judge ("ALJ") on May 20, 2011, in the above-captioned investigation, and, on review, to find no violation of section 337 and terminate the investigation.

FOR FURTHER INFORMATION CONTACT: Jean H. Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW, Washington, D.C. 20436, telephone (202) 205-3104. 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 April 21, 2010, based on a complaint filed by Verizon Communications Inc. and Verizon Services Corp. (collectively, "Verizon"), alleging a violation of section 337 in the importation, sale for importation, and sale within the United States after importation of certain digital set-top boxes components thereof, that infringe one or more of claim 14 of U.S. Patent No. 5,635,979; claim of U.S. Patent No. 5,666,293; claim 13 of U.S. Patent No. 6,381,748 ("the '748 patent"); claim 14 of U.S. Patent No. 6,367,078; and claim 5 of U.S. Patent No. 7,561,214. *75 Fed. Reg.* 20861 (2010). Complainant named Cablevision Systems Corp. of Bethpage, New York ("Cablevision")

as the only respondent. *Id.*

On May 20, 2011, the ALJ issued his final ID finding a violation of section 337. Specifically, the ALJ found that a violation of section 337 has occurred in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain digital set-top boxes and components thereof that infringe claim 13 of the '748 patent. On July 21, 2011, the Commission determined not to review the ALJ's final ID, and requested that the parties file written submissions on the issues of remedy, the public interest, and bonding. *See* Notice of Commission Determination Not To Review a Final Initial Determination (Dated July 21, 2011). The parties filed timely opening and responsive submissions.

On August 8, 2011, respondent Cablevision filed a petition for reconsideration of the Commission's determination not to review the ALJ's finding of a violation of section 337 based on infringement of claim 13 of the '748 patent. Respondent sought reconsideration of the Commission's determination based on the August 2, 2011, entry of final judgment by the U.S. District Court for the Eastern District of Virginia in *ActiveVideo Networks, Inc. v. Verizon Commc 'ns Inc.*, No. 2:10-cv-248 (E.D. Va.) and the previous ruling in that action that claim 13 of the '748 patent is invalid. Complainant Verizon filed an opposition to respondent's petition, whereas the Commission investigative attorney filed a response supporting respondent's petition.

Having examined the record in this investigation, the Commission has determined to grant respondent's petition for reconsideration and waive its requirement that any petition for reconsideration be filed within 14 days of the action taken. Accordingly, the Commission has determined to review the ALJ's final ID and, on review, to find that there is no violation of section 337 in this investigation based on the preclusive effects of the district court's finding of invalidity. The investigation is terminated. A Commission opinion in support of this determination will be issued shortly.

The authority for this action is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and in sections 201.4 and 210.45-50 of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 201.4, 210.45-50).

By order of the Commission.

/s/

James R. Holbein
Secretary to the Commission

Issued: September 20, 2011