While you may request in your
be made publicly available at any time.
personal identifying information—may
your entire comment—including your
comment, you should be aware that
personal identifying information in your
participate as a cooperating agency.
local agencies, along with other
Indian trust assets. Federal, State, and
consideration, including impacts on
conducted in accordance with policy,
EIS. At present, the BLM has identified
scoping process to help fulfill
Section 106 of the National Historic
Native American tribal consultations will be
in accordance with policy, and
tribal concerns will be given due
impacts on Indian trust assets. Federal, State, and
along with other
stakeholders who may be interested in
affected by the BLM’s decision on
invited to participate in the
the BLM to participate as a cooperating agency.
Before including your address, phone
numbers, email address, or other
personal identifying information in your
comment, you should be aware that
your entire comment—including your
personal identifying information—may
be made publicly available at any time.
While you may request in your
comment to withhold your personal
identifying information from public review, it cannot be guaranteed that
personal information will be withheld.

Authority: 40 CFR 1501.7.

Dated: May 20, 2013.

Donald A. Simpson,
State Director.

[FEDERAL REGULATIONS: 4310–22–P]

INTERNATIONAL TRADE
COMMISSION

[Investigation No. 337–TA–770]

Certain Video Game Systems and
Wireless Controllers and Components
Thereof; Commission Determination
To Review-In-Part a Remand Initial
Determination; Schedule for Filing
Written Submissions on Review for
Remand Initial Determination and Final
Initial Determination

AGENCY: U.S. International Trade
Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that
the U.S. International Trade
Commission has determined to review
certain portions of the remand initial
determination (“ID”) issued by the
presiding administrative law judge
(“ALJ”) on May 7, 2013 in the above-
captioned investigation.

FOR FURTHER INFORMATION CONTACT: Jia
Chen, Office of the General Counsel,
U.S. International Trade Commission,
500 E Street SW., Washington, DC
20436, telephone (202) 708–4737.
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, DC 20436,
telephone (202) 205–2000. General
information concerning the Commission
may also be obtained by accessing its
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: On April
27, 2011, the Commission instituted the
subject investigation based on a
complaint filed by Creative Kingdoms,
LLC of Wakefield, Rhode Island and
New Kingdoms, LLC of Nehalem,
Oregon (collectively, “CK”). 76 FR
23624 (Apr. 27, 2011). The complaint
alleged violations of Section 337 of the
Tariff Act of 1930, 19 U.S.C. 1337
(“Section 337”) by reason of
infringement of certain claims of United
States Patent Nos. 7,896,742 ("the '742
patent"); 7,500,917 ("the '917 patent");
and 7,850,527 ("the '527 patent"). The
named respondents are Nintendo Co.,
Ltd., of Kyoto, Japan and Nintendo
America, Inc. of Redmond, Washington
(collectively, “Nintendo”).

The products accused of infringing
the asserted patents are gaming systems
and related components and software,
including the Wii Remote, Wii
MotionPlus, Wii Remote Plus, Nunchuk,
Wii console (versions RVL and RVK),
including the Wii Remote, Wii
components, such as certain
Wii controllers, including the Wii
Remote Plus, and certain Wii
accessories, including the Wii U
controller and the Wii
Wii U console (collectively, the
"accused products").

On August 31, 2012, the ALJ issued a
final ID finding no violation of section
337 by Nintendo. The ALJ found that
the accused products infringe sole
asserted claim 24 of the '742 patent,
but that the claim is invalid for failing to
satisfy the enablement requirement and
the written description requirement
under 35 U.S.C. 112. The ALJ also found
that no accused products infringe the
asserted claims of the '917 patent and
'527 patents. The ALJ did not make a
finding regarding the technical prong
of the domestic industry requirement
with respect to the asserted patents.

On September 17, 2012, CK filed a
petition for review challenging the ALJ’s
findings with respect to claim
infringement, enablement, and written
description for the '917 patent, the ALJ’s
findings with respect to enablement and
written description of the '742 patent,
as well as the ALJ’s findings with respect to the
domestic industry requirement for the '917
and '742 patents. On the same day, Nintendo
filed a petition for review challenging the
ALJ’s finding with respect to claim
construction, infringement, enablement
and written description for the '917
patent, the ALJ’s findings with respect to
infringement of the '742 patent, as well as the
ALJ’s findings with respect to the domestic
industry requirement for the '917 and
'742 patents. On the same day, Nintendo
filed a petition for review challenging the
ALJ’s finding with respect to claim
construction and infringement for the
'742 patent. Nintendo also challenged the
ALJ’s failure to address anticipation
and obviousness with respect to the '917
and '742 patents. The Commission issued a
petition for review challenging the ALJ’s
findings with respect to the domestic industry.
On November 6, 2012, the Commission determined to review the following issues: (1) Claim construction of the limitation “toy wand” of the asserted claim of the '917 patent; (2) non-infringement of the asserted claim of the '917 patent; (3) infringement of the asserted claim of the '742 patent; (4) validity of the asserted claims of the '917 and '742 patents under the enablement requirement; (5) validity of the asserted claims of the '917 and '742 patents under the written description requirement; and (6) whether the domestic industry requirement is met with respect to the '917 and '742 patents. On the same day, the Commission issued an opinion with respect to the proper claim construction of the term “toy wand” of the asserted claim of the '917 patent. Specifically, the Commission disagreed with the ALJ that the term “toy wand” should be construed as “an elongated hollow pipe or tube consistent with a wand associated with magic or illusion.” The Commission found that the term “toy wand” should be construed as “an elongated hollow pipe or tube used for play.” The Commission determined to remand this case to the ALJ to determine the following issues: (a) Direct infringement of the asserted claim of the '917 patent in light of the proper construction of the term “wand” as set forth in the Commission opinion; (b) whether the independently sold Wii MotionPlus and Nunchuck accessories contributorily infringe the asserted claims of the '917 and '742 patents; (c) anticipation and obviousness with respect to the asserted claim of the '917 patent; (d) obviousness with respect to the asserted claim of the '917 patent; and (e) whether CK has satisfied the technical prong of the domestic industry requirement with respect to the '917 and '742 patents, and if necessary, whether CK has satisfied the economic prong of the domestic industry requirement with respect to the '917 and '742 patents in light of the ALJ’s technical prong determination.

On May 7, 2013, the ALJ issued a remand ID finding no violation of section 337. The ALJ found that (i) the accused products do not infringe claim 7 of the '917 patent; (ii) Nintendo does not contribute to the infringement of claim 24 of the '742 patent through its sale of the Wii Nunchuk and the Wii MotionPlus accessories; (iii) the asserted claim of the '917 patent is not invalid for anticipation; (iv) the asserted claim of the '917 patent is not invalid for obviousness; (v) the asserted claim of the '742 patent is not invalid for obviousness; (vi) complainant has satisfied the technical prong of the domestic industry requirement for the '917 patent; and (vii) complainant has satisfied the technical prong of the domestic industry requirement for the '742 patent. The ALJ determined that it was unnecessary to revisit his previous finding in his final ID that complainant has not satisfied the economic prong of the domestic industry requirement for the '742 and '917 patents.

On May 21, 2013, CK filed a petition for review of the remand ID, challenging the ALJ’s finding that complainant has not satisfied the economic prong of the domestic industry requirement for the '742 and '917 patents. CK also challenges the ALJ’s finding that the accused products do not directly infringe the '917 patent and that the separately sold Wii Nunchuk or the Wii MotionPlus accessories do not contributorily infringe the asserted claim of the '742 patent. On the same day, Nintendo filed a petition for review of the remand ID, challenging the ALJ's finding with respect to obviousness of the asserted claim of the '742 patent. The IA did not submit a petition for review. On June 3, 2013, CK, Nintendo, and the IA each filed reply briefs.

Having examined the record of this investigation, the Commission has determined to review the following issues from the remand ID: (1) Whether the accused products do not directly infringe the asserted claim of the '917 patent; (2) whether the independently sold Wii MotionPlus and Nunchuck accessories contributorily infringe the asserted claims of the '917 and '742 patents; (3) anticipation and obviousness of the asserted claim of the '917 patent; (4) obviousness of the asserted claim of the '917 patent; and (5) whether the technical prong of the domestic industry requirement is met with respect to the '917 and '742 patents. In addition, the following issues from the final ID are currently under review: (a) whether the accused products do not directly infringe the asserted claim of the '742 patent; (b) validity of the asserted claims of the '917 and '742 patents under the enablement requirement; (c) validity of the asserted claims of the '917 and '742 patent under the written description requirement; and (d) whether the economic prong of the domestic industry requirement is met with respect to the '917 and '742 patents. The parties should brief their positions on the issues under review with reference to the applicable law and the evidentiary record. In connection with its review, the Commission is particularly interested in responses to the following questions:

Question 1: Please explain whether the accused products meet the following limitations of the asserted claim of the '917 patent: (a) “a toy wand,” i.e., “an elongated hollow pipe or tube used for play”; (b) “an elongated body having a first end and a second end”; (c) “a pair of first motion sensors configured to generate a first signal in response to a first motion of the elongated body”; (d) “a second motion sensor configured to generate a second signal in response to a second motion of the elongated body, wherein the second motion sensor is different than either of the pair of first motion sensors”;

Question 2: With respect to CK’s contributory infringement claim for the independently sold Nunchuck and MotionPlus accessories, please cite to and discuss all evidence indicating (1) whether there is an act of direct infringement; and (2) whether Nintendo had knowledge that the combination of the Nunchuck or MotionPlus accessories with the Wii Remote controller was covered by the '742 patent.

Question 3: What are the novel aspects of the invention of claim 24 of the '917 patent, and are those novel aspects supplied by the specification of the '917 patent? See BMW of North America Inc., 501 F.3d 1274, 1283 (Fed. Cir. 2007) (“It is the specification, not the knowledge of one skilled in the art, that must supply the novel aspects of an invention in order to constitute adequate enablement.”).

Question 4: Would it have been known to a person of ordinary skill in the art in light of the '917 patent specification to configure the disclosed accelerometer or other motion sensors to sense motion as required by claim 24?

Question 5: What are the novel aspects of the invention of claim 24 of the '917 patent, and are those novel aspects supplied by the specification of the '742 patent? See Automotive Technologies v. BMW of North America Inc., 501 F.3d 1274, 1283 (Fed. Cir. 2007). ("It is the specification, not the knowledge of one skilled in the art, that must supply the novel aspects of an invention in order to constitute adequate enablement.")

Question 6: Please discuss whether claim 24 of the '742 patent is rendered obvious by the combination of Silfer, Han, and Nitta.

Question 7: Please discuss whether claim 24 of the '742 patent is rendered obvious by the combination of Willner, Silfer, and Coschay.

Question 8: Assuming that the technical prong of the domestic industry requirement is met and assuming that the patented article is the toy wand (as opposed to the entire MagiQuest attraction including the toy wand), do the “realities of the marketplace” dictate that the entire MagiQuest attraction (including the physical space, themes, props, other peripheral items, and sales and training staff) is the article of commerce in competition? See certain Double-Sided Floppy Disk Drives and Components Thereof, Inv. No. 337-TA-215, USITC Pub. 1860,

By order of the Commission.
Issued: July 8, 2013.

Lisa R. Barton,
Acting Secretary to the Commission.

[FR Doc. 2013–16709 Filed 7–11–13; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–857]

Certain Reduced Folate Nutraceutical Products and L-Methylfolate Raw Ingredients Used Therein; Commission Determination Not To Review an Initial Determination Granting Complainants' Corrected Motion for Leave To Amend the Complaint and Notice of Investigation To Add a Complainant and Change a Complainant Name


ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination ("ID") (Order No. 12) of the presiding administrative law judge granting complainants' corrected motion for leave to amend the complaint and notice of investigation to add a complainant and change a complainant name.

FOR FURTHER INFORMATION CONTACT: James A. Worth, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–3065. 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, DC 20436, telephone (202) 205–3065. 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, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its...