

("the '394 patent"); 7,827,585 ("the '585 patent"); 9,294,799 ("the '799 patent"); 9,396,741 ("the '741 patent"); 9,578,363 ("the '363 patent"); 9,621,956 ("the '956 patent"); and 9,668,014 ("the '014 patent"). 83 FR 11792 (Mar. 16, 2018). The Commission's notice of investigation named as respondents Comcast Corporation of Philadelphia, Pennsylvania; Comcast Cable Communications, LLC of Philadelphia, Pennsylvania; Comcast Cable Communications Management, LLC of Philadelphia, Pennsylvania; Comcast Business Communications, LLC of Philadelphia, Pennsylvania; Comcast Holdings Corporation of Philadelphia, Pennsylvania; and Comcast Shared Services, LLC of Chicago, Illinois (collectively, "Comcast"). *Id.* The Office of Unfair Import Investigations was also named as a party in this investigation. *Id.*

The Commission previously terminated the investigation as to complainant Rovi Technologies Corporation; as to the '956, '394, '014, '799, and '363 patents in their entirety; and as to certain claims of the '011, '585, and '741 patents. Order No. 12, *unreviewed*, Notice (July 24, 2018); Order No. 33, *unreviewed*, Notice (Sept. 19, 2018); Order 39, *unreviewed*, Notice (Oct. 25, 2018).

On June 3, 2019, the presiding ALJ issued Order No. 47, a summary determination ("SD"), which, *inter alia*, granted Rovi's motions for summary determination as to importation and sale after importation. On June 11, 2019, Comcast filed a petition for review of the SD. On June 18, 2019, Rovi responded to Comcast's petition. On June 25, 2019, the Commission investigative attorney ("IA") responded to Comcast's petition.

On June 4, 2019, the ALJ issued the final initial determination ("final ID"). On June 17, 2019, Comcast and Rovi each filed a petition for review of the final ID. On June 25, 2019, Comcast and Rovi responded to each other's petition, and the IA responded to both.

In addition, the Commission received comments from Rovi on the public interest pursuant to Commission Rule 210.50(a)(4). The Commission also received comments from the following organizations in response to the Commission's notice soliciting public interest comments, 84 FR 27804 (June 14, 2019): Tea Party Patriots Action; Americans for Limited Government; Frontiers of Freedom Institute; Market Institute; and Conservatives for Property Rights (joined by 60 Plus Association, and Americans for Limited Government). The Commission also received correspondence from Rep.

Peter King (R-N.Y.) (Sept. 19, 2019), Rep. Jackie Speier (D-Cal.) (Sept. 6, 2019), and Rep. Steve Stivers (R-Ohio) (Aug. 27, 2019).

On August 15, 2019, the Commission determined to review in part the SD as to reimportation, and not to review the remainder of the SD. Notice at 3 (Aug. 15, 2019) ("Notice of Review"). As to the final ID, in relevant part the Commission terminated the investigation with a finding of no violation as to the '585 and '741 patents, but determined to review infringement of the '011 patent. *Id.* The Commission solicited briefing on certain questions pertaining to infringement of the '011 patent. *Id.* at 4.

On August 29, 2019, the parties filed responses to the Commission notice, and on September 10, 2019, Comcast and Rovi filed replies.

Having examined the record of this investigation, including the final ID and the parties' submissions, the Commission has determined that Comcast's X1 set-top boxes are used by Comcast's users to directly infringe claim 9 of the '011 patent at Comcast's inducement. Thus, Comcast violated section 337 with regard to claim 9 of the '011 patent. The Commission declines to reach the issue of whether there has been a section 337 violation as to claim 1 of the '011 patent because of the delay and burden associated with deciding the issue and because such a finding would not afford any additional relief to Rovi. Thus, the Commission need not decide the issue. *See Yingbin-Nature (Guangdong) Wood Indus. Co. v. Int'l Trade Comm'n*, 535 F.3d 1322, 1331-32 (Fed. Cir. 2008).

The Commission has further determined that the appropriate remedy is: (1) A limited exclusion order prohibiting the entry of infringing digital video receivers and related hardware and software components; and (2) cease and desist orders directed to respondents. The Commission has determined that the public interest factors enumerated in section 337(d) and (f), 19 U.S.C. 1337(d), (f), do not preclude the issuance of the limited exclusion order or the cease and desist orders. The Commission has determined that a bond in the amount of zero percent of entered value is required during the period of Presidential review. 19 U.S.C. 1337(j)(3).

The investigation is terminated. The Commission's reasoning in support of its determinations is set forth more fully in its opinion. The Commission's orders and opinion were delivered to the President and the United States Trade Representative on the day of their issuance.

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: April 23, 2020.

**Lisa Barton,**

*Secretary to the Commission.*

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## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1171]

### Certain Child Resistant Closures With Slider Devices Having a User Actuated Insertable Torpedo for Selectively Opening the Closures and Slider Devices Therefor; Notice of Request for Statements on the Public Interest

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that, on April 21, 2020, the presiding administrative law judge ("ALJ") issued an Initial Determination Granting Summary Determination on Violation of Section 337 and Recommended Determination on Remedy and Bonding in the above-captioned investigation. On April 22, 2020, the ALJ issued a Notice of Errata thereto. The Commission is soliciting comments on public interest issues raised by the recommended relief, should the Commission find a violation. This notice is soliciting public interest comments from the public only. Parties are to file public interest submissions pursuant to Commission rules.

#### FOR FURTHER INFORMATION CONTACT:

Richard P. Hadorn, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-3179. 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:** Section 337 of the Tariff Act of 1930 (“Section 337”) provides that if the Commission finds a violation it shall exclude the articles concerned from the United States unless the public interest factors listed in 19 U.S.C. 1337(d)(1) prevent such action. A similar provision applies to cease and desist orders. 19 U.S.C. 1337(f)(1).

The Commission is soliciting comments on public interest issues raised by the recommended relief should the Commission find a violation, specifically: (1) A general exclusion order (“GEO”) directed to certain child resistant closures with slider devices having a user actuated insertable torpedo for selectively opening the closures and slider devices therefor imported, sold for importation, and/or sold after importation that infringe one or more of claims 1, 3, 5, and 8–10 of U.S. Patent No. 9,505,531; claims 1, 4, 6–8, 11, 12, 15, and 19 of U.S. Patent No. 9,554,628; and claims 1, 3, 5, and 8 of U.S. Patent No. 10,273,058; and (2) if the Commission declines to issue a GEO, then a limited exclusion order (“LEO”) directed to certain child resistant closures with slider devices having a user actuated insertable torpedo for selectively opening the closures and slider devices therefor imported, sold for importation, and/or sold after importation by defaulting respondents Dalian Takebishi Packing Industry Co., Ltd. of Dalian, China and Dalian Altma Industry Co., Ltd. of Dalian, Liaoning, China that infringe one or more of the above claims.

The Commission is interested in further development of the record on the public interest in this investigation. Accordingly, parties are to file public interest submissions pursuant to 19 CFR 210.50(a)(4). In addition, members of the public are hereby invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the ALJ’s Recommended Determination on Remedy and Bonding issued in this investigation on April 21, 2020. Comments should address whether issuance of the remedial orders in this investigation, should the Commission find a violation, 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 recommended

GEO and LEOs are used in the United States;

(ii) Identify any public health, safety, or welfare concerns in the United States relating to the recommended GEO and LEOs;

(iii) Identify like or directly competitive articles that complainant, its licensees, and/or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) Indicate whether complainant, its licensees, and/or third-party suppliers have the capacity to replace the volume of articles potentially subject to the recommended GEO and LEOs within a commercially reasonable time; and

(v) Explain how the recommended GEO and LEOs would impact consumers in the United States.

Written submissions from the public must be filed no later than by close of business on May 21, 2020.

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 (Mar. 19, 2020). Submissions should refer to the investigation number (“Inv. No. 337–TA–1171”) in a prominent place on the cover page and/or the first page. (*See 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)). Persons with questions regarding filing should contact the Secretary ((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 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, 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 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: April 23, 2020.

**Lisa Barton,**

*Secretary to the Commission.*

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### Kansky J. Delisma, M.D.; Decision and Order

On May 23, 2019, the Drug Enforcement Administration (hereinafter, DEA or Government) Administrative Law Judge Charles Wm. Dorman (hereinafter, ALJ), issued a Recommended Rulings, Findings of Fact, Conclusions of Law and Decision (hereinafter, RD) on the action to deny Kansky J. Delisma, M.D.’s application for a DEA Certification of Registration. The Government filed exceptions to the RD to which Dr. Delisma responded. Having reviewed and considered the entire administrative record before me, including the Government’s Exceptions, I adopt the ALJ’s RD with minor modifications, where noted herein.\*<sup>A</sup>

#### Government’s Exceptions

The Government filed an exception (hereinafter, Govt Exceptions) to the ALJ’s interpretation and application of 21 U.S.C. 824(a)(5) and that provision’s interplay with 42 U.S.C. 1320a–7(a). Govt Exceptions, at 2. Under Section 824(a) of the Controlled Substances Act (hereinafter, CSA), a registration “may be suspended or revoked” upon a finding of one or more of five grounds. 21 U.S.C. 824. The ground in 21 U.S.C. 824(a)(5) requires that the registrant

\*<sup>A</sup>I have made minor modifications to the RD. I have substituted initials for the names of witnesses to protect their privacy, and I have made minor, nonsubstantive grammatical changes. Where I have made any substantive changes, omitted language for brevity or relevance, or where I have added to or modified the ALJ’s opinion, I have bracketed the modified language and explained the edit in a footnote marked with an asterisk and a letter in alphabetical order.