secondary meaning prior to each Active Respondents' alleged first use of the mark. The Commission has determined that there has been no violation by the Active Respondents because, although Converse has established that its CMT had acquired secondary meaning prior to each of those Respondents' alleged first uses of the mark (which predate registration of the '753 trademark), Converse has failed to show either a likelihood of confusion or injury to its domestic industry, or both, with respect to those Respondents' accused products. The Commission has also determined that it may assess the validity of the '753 trademark and affirms with modifications the RID's finding that the '753 trademark has not been proven invalid. The Commission further determines that Converse has proven a violation of section 337 by substantial, reliable, and probative evidence with respect to Defaulting Respondents Foreversun and Dioniso (whose infringements postdate registration of the '753 trademark), but not with respect to Defaulting Respondents Xinya, Wenzhou, and Ouhai. Accordingly, the Commission has determined that there is a violation of section 337 with respect to the '753 trademark.

Having found a violation of section 337 as to the '753 trademark, the Commission has determined that the appropriate form of relief is: (1) A GEO prohibiting the unlicensed entry of footwear products that infringe the '753 trademark; and (2) CDOs prohibiting Defaulting Respondents Dioniso and Foreversun from further importing, selling, and distributing infringing products in the United States. The Commission further determined that the public interest factors enumerated in section 337(d)(1) and (f)(1) do not preclude issuance of the remedial orders. Finally, the Commission determined that a bond in the amount of 100 percent of the entered value (per pair) of the infringing products is required to permit temporary importation during the period of Presidential review (19 U.S.C. 1337(j)). The Commission has also issued an opinion explaining the basis for the Commission's action. The Commission's orders and opinion were delivered to the President and to the United States Trade Representative on the day of their issuance. The investigation is hereby terminated.

While temporary remote operating procedures are in place in response to COVID–19, the Office of the Secretary is not able to serve parties that have not retained counsel or otherwise provided a point of contact for electronic service. Accordingly, pursuant to Commission Rules 201.16(a) and 210.7(a)(1) (19 CFR 201.16(a), 210.7(a)(1)), the Commission orders that the Complainant complete service for any party without a method of electronic service noted on the attached Certificate of Service and shall file proof of service on the Electronic Document Information System (EDIS).

The Commission vote for this determination took place on September 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: September 9, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–20278 Filed 9–14–20; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1118]

Certain Movable Barrier Operator Systems and Components Thereof; Notice of a Commission Determination To Review a Remand Initial Determination; Request for Written Submissions

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: Review a Remand Initial Determination (''Remand ID'') finding that the complainant The Chamberlain Group, Inc. (''CGI'') has satisfied the economic prong of the domestic industry requirement with respect to U.S. Patent No. 7,755,223 (''the '223 patent''); and request supplemental briefing on remedy, the public interest, and bonding for the limited purpose of updating submissions submitted in March 2020.

FOR FURTHER INFORMATION CONTACT: Carl P. Bretscher, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2382. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket system (''EDIS'') at *https://edis.usitc.gov*. For help accessing EDIS, please email *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: The Commission instituted this investigation on June 11, 2018, based on a complaint, as supplemented, filed by CGI of Oak Brook, Illinois. 83 FR 27020–21 (June 11, 2018). The complaint alleges a violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''Section 337''), in the importation, sale for importation, or sale in the United States after importation of certain movable barrier operator (''MBO'') systems that purportedly infringe one or more of the asserted claims of the '223 patent and U.S. Patent Nos. 8,587,404 (''the '404 patent'') and 6,741,052 (''the '052 patent''). *Id.* The Commission's notice of investigation named Nortek Security & Control, LLC of Carlsbad, CA; Nortek, Inc. of Providence, RI; and GTO Access Systems, LLC of Tallahassee, FL (collectively, ''Nortek'') as respondents. *Id.* The Office of Unfair Import Investigations was not named as a party to this investigation. *See id.*

The Commission subsequently terminated the investigation with respect to certain patent claims withdrawn by CGI. *See* Order No. 16 (Feb. 5, 2019), *unreviewed by* Comm'n Notice (March 6, 2019); Order No. 27 (June 7, 2019), *unreviewed by* Comm'n Notice (June 27, 2019); Order No. 31 (July 30, 2019), *unreviewed by* Comm'n Notice (Aug. 19, 2019); Order No. 32 (Sept. 27, 2019), *unreviewed by* Comm'n Notice (Oct. 17, 2019).

On June 5, 2019, the presiding administrative law judge (''ALJ'') issued a Markman order (Order No. 25) construing the claim terms in dispute.

On December 12, 2018, CGI filed a motion for summary determination that it satisfied the economic prong of the domestic industry requirement. Nortek opposed the motion. On June 6, 2019, the ALJ issued a notice advising the parties that the motion would be granted and a formal written order would be issued later. Order No. 26 (June 6, 2019).

The ALJ held an evidentiary hearing on the issues in dispute on June 10–14, 2019.

On November 25, 2019, ALJ issued Order No. 38, finding no issue of material fact that CGI's investments in labor and capital relating to its domestic industry products were ''significant''

and that CGI has satisfied the economic prong of the domestic industry requirement pursuant to Section 337(a)(3)(B) (19 U.S.C. 1337(a)(3)(B)). Order No. 38 (Nov. 25, 2019). Order No. 38 also finds that genuine issues of material fact precluded entry of summary determination with respect to CGI's investments in plant and equipment, under Section 337(a)(3)(A) (19 U.S.C. 1337(a)(3)(A)). *Id.*

On the same date, the ALJ issued a final initial determination (''Final ID''), finding no violation of Section 337 because the asserted claims of the '223 and '404 patents, if valid, are not infringed and the asserted claim of the '052 patent is invalid, even if infringed. Initial Determination on Violation of Section 337 and Recommended Determination on Remedy and Bond (Nov. 25, 2019).

On February 19, 2020, the Commission issued a notice of its determination to review Order No. 38 and to partially review the Final ID with respect to certain issues relating to each of the three asserted patents. 85 FR 10723–26 (Feb. 25, 2020). The Commission also directed the parties to brief its questions on violation and requested briefing from the parties, the public, and any interested government entities concerning remedy, the public interest, and bonding. *Id.*

On April 22, 2020, the Commission issued a determination finding no violation with respect to the '404 or '052 patents. Comm'n Notice at 3 (April 22, 2020). The Commission also vacated Order No. 38 and remanded the economic prong issue with respect to the '223 patent. *Id.;* Order Vacating and Remanding Order No. 38 (April 22, 2020) (''Remand Order'').

On May 15, 2020, the ALJ issued Order No. 39, seeking additional information from the parties in light of the Commission's Remand Order. Order No. 39 (May 15, 2020). On July 10, 2020, the ALJ issued the subject Remand ID, finding that CGI has made significant investments, both quantitatively and qualitatively, in plant and equipment and labor and capital, pursuant to Section 337(a)(3)(A) and (B) (19 U.S.C. 1337(a)(3)(A)–(B)), respectively. Remand Initial Determination (July 10, 2020). The Remand ID concludes that CGI has satisfied the economic prong of the domestic industry requirement in relation to the '223 patent. *Id.*

On July 20, 2020, Nortek filed a petition for review of the RID. CGI filed its opposition to Nortek's petition for review on July 27, 2020.

Having reviewed the Remand ID, the parties' submissions, and the record in this investigation, the Commission has determined to review the Remand ID and requests the parties to brief the following questions:

(1) With respect to CGI's garage door opener (''GDO'') products that purportedly practice the '223 patent ('' '223 DI products''), provide the percentage of CGI's sales of its '223 DI products in the United States compared to its total, worldwide sales of such products. Explain whether this percentage substantially differs from the percentage of CGI's sales of all GDO products in the United States compared to its worldwide sales of all GDO products or the percentage of CGI's sales of all products in the United States compared to its worldwide sales of all products, as provided by CGI. If so, explain whether using the percentage of CGI's sales of '223 DI products in the United States, compared to its total worldwide sales of such products, would materially affect calculation of its relevant domestic industry investments or foreign investments in plant and equipment or labor and capital, and how this may affect the economic prong analysis.

(2) Explain whether CGI's calculations of its foreign expenditures for plant and equipment or labor and capital relating to its '223 DI products include its foreign manufacturing expenditures. If not, please indicate what information is in the record regarding its foreign manufacturing expenses, and provide, if possible, calculations comparing domestic expenditures to total expenditures (that include the foreign manufacturing expenses). Based on these calculations, discuss how including CGI's foreign manufacturing expenditures affects assessment of the significance of its relevant domestic industry investments in either plant and equipment or labor and capital.

(3) When were the calculations and analyses that the Commission has requested in questions (1) and (2) performed? Who performed them?

(4) Did Nortek previously present any calculations or analyses using CGI's worldwide sales?

(5) Please provide further detail (as available in the record) regarding the activities performed at CGI's Technical Support Center in Tucson. Explain, with reference to relevant Commission precedent, the extent to which the Commission should consider such expenses in its assessment of the economic prong. Also explain whether these activities are the sort that a mere importer would need to carry out in the United States (as opposed to in another country).

(6) Please discuss the similarities and differences between the allocation methodologies Chamberlain used in this investigation and allocation methodology used in the 1016 investigation, *Certain Access Control Systems and Components Thereof,* Inv. No. 337–TA–1016.

(7) In the 1016 investigation, did the presiding ALJ or the Commission require Chamberlain to evaluate its worldwide sales or foreign manufacturing when it was concluded that Chamberlain satisfied the economic prong? *See generally* 1016 Initial Determination at 222–293 (Oct. 23, 2017); Comm'n Notice (Dec. 22, 2017). Apart from the 1057 and 1097 investigations that the parties have already addressed, please briefly identify any Commission precedent requiring a complainant to present its manufacturing investment data.

(8) Please discuss whether, in an investigation in which the DI products are manufactured outside the United States, it is consistent with the statute, legislative history, and court and Commission precedent not to consider foreign manufacturing expenses in determining the significance of domestic industry investments and expenditures.

(9) Chamberlain has argued that the '223 DI products overlap with the products analyzed in the 1016 investigation. *See* Chamberlain Submission on Remand at 25 (June 1, 2020). Please discuss the extent of the overlap in the DI products in the 1016 investigation and the present investigation.

(10) Given that the parties responded to the Commission's request for briefing on remedy, the public interest, and bonding five months ago, the parties should revise their submissions on these subjects for the limited purpose of updating them in light of the last five months. The parties should include a discussion as to whether limiting the scope of the violation (if any) and covered products to the '233 patent and excluding the '404 and '052 patents would impact the determination of remedy (*e.g.,* by affecting the scope of Nortek's domestic inventory), the public interest, bonding, or any other issues on review. The parties, in preparing their supplemental submissions, should follow the instructions provided by the Commission in its earlier notice of partial review of the Final ID. *See* 85 FR at 10724–26 (Feb. 19, 2020).

The parties are requested to brief only the discrete issues identified above, with reference to the applicable law and evidentiary record. The parties are not to brief any other issues on review, which have already been adequately presented in the parties' previous

filings. In addition, 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 initial submissions should include views on the recommended determination by the ALJ on the issues of remedy and bonding.

The parties' written submissions and proposed remedial orders must be filed no later than the close of business on September 23, 2020. Reply submissions must be filed no later than the close of business on September 30, 2020. Opening submissions are limited to 30 pages. Reply submissions are limited to 25 pages. Third-party submissions should be filed no later than the close of business on September 30, 2020, and may not include 10 pages, not including any attachments. No further submissions on any of 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 (Mar. 19, 2020). Submissions should refer to the investigation number (''Inv. No. 337–TA–1118'') in a prominent place on the cover page and/or first page. (*See Handbook for Electronic Filing Procedures, 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).

The Commission voted to approve these determinations on September 9, 2020.

By order of the Commission.

Issued: September 9, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–20279 Filed 9–14–20; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980

On September 9, 2020, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of Colorado in the lawsuit entitled *United States of America* v. *Pioneer Natural Resources Company and Pioneer Natural Resources USA, Inc.,* Civil Action No.1:17–CV–00168–WJM–NYM.

The lawsuit was commenced in January 2017, when the United States, on behalf of the United States Environmental Protection Agency (''EPA''), filed a complaint against Pioneer Natural Resources Company and Pioneer Natural Resources USA, Inc. (''Settling Defendants'') seeking reimbursement of response costs incurred under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9607(a), for response actions at or in connection with the release or threatened release of hazardous substances at Operable Unit 1 (''OU1'') of the Nelson Tunnel/Commodore Waste Rock Pile Superfund Site (''Site''). The United States also sought a declaration of Settling Defendants' liability, pursuant to Section 113(g) of CERCLA for all future response costs to be incurred by the United States in connection with the OU1 Site. A remedial action at Operable Unit 2 (''OU2'') of the Site is also ongoing. The filed Complaint was for OU1 response costs only.

In September 2017, Pioneer filed a counterclaim against the United States alleging that the United States is liable under Sections 107 and 113 of CERCLA, 42 U.S.C. 9607 and 9613, as both an owner of OU1 at the time that hazardous substances were disposed of at OU1 and a current owner of OU1. Settling Defendants in their counterclaims sought a judgment against the United States for the United States' equitable share of costs incurred and that may, in the future, be incurred as a result of the release or threatened release of hazardous substances at the OU1 Site.

The proposed Consent Decree will resolve all CERCLA claims and counterclaims alleged in this action. In addition, the proposed Consent Decree will resolve CERCLA claims relating to OU2, as detailed below.

The proposed Consent Decree requires Settling Defendants to pay $5,775,000 for past and future response costs incurred by the United States in connection with OU1 and OU2 at the Site. In return, the United States provides a covenant not to sue and contribution protection to Settling Defendants for past and future response costs in connection with the Site as a whole, which includes OU1 and OU2. These covenants extend only to Settling Defendants and are conditioned upon the satisfactory performance by Settling Defendants of their obligations under the proposed Consent Decree.

The proposed Consent Decree also requires Settling Federal Agencies, the United States, on behalf of the United States Department of Interior and the United States Department of Agriculture, on behalf of the United States Forest Service (''USFS''), to pay EPA $425,000 for past and future response costs incurred in connection with OU1 at the Site and past response costs incurred in connection with OU2 at the Site. Future response costs to be incurred by EPA and the USFS in connection with the CERCLA response action(s) at OU2 will be resolved through a memorandum of understanding or interagency agreement between the USFS and EPA. In return for the payment from Settling Federal Agencies, EPA provides a covenant to not take administrative action against Settling Federal Agencies to recover past and future response costs in connection with OU1 at the Site and past response costs in connection with OU2 at the Site. These covenants only extend to Settling Federal Agencies and are also conditioned upon the satisfactory performance by Settling