

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-945 (Modification Proceeding)]

Certain Network Devices, Related Software and Components Thereof (II) Institution of Modification Proceeding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to institute a modification proceeding in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT:

Amanda P. Fisherow, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205-2737. 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 Internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://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: The Commission instituted this investigation on January 27, 2015, based on a Complaint filed by Cisco Systems, Inc. of San Jose, California ("Cisco"). 80 FR 4313-14 (Jan. 27, 2015). The Complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 ("section 337"), by reason of infringement of certain claims of U.S. Patent Nos. 7,023,853 ("the '853 patent"); 6,377,577 ("the '577 patent"); 7,460,492 ("the '492 patent"); 7,061,875 ("the '875 patent"); 7,224,668 ("the '668 patent"); and 8,051,211 ("the '211 patent"). The Complaint further alleges the existence of a domestic industry. The Commission's Notice of Investigation named Arista Networks, Inc. of Santa Clara, California ("Arista") as the respondent. The Office of Unfair Import Investigations ("OUII") was also named as a party to the investigation. The Commission terminated the investigation in part as to certain claims

of the asserted patents. Notice (Nov. 18, 2015) (see Order No. 38 (Oct. 27, 2015)); Notice (Dec. 1, 2015) (see Order No. 47 (Nov. 9, 2015)).

On May 4, 2017, the Commission found a violation of section 337 with respect to certain of the asserted claims of the '577 and '668 patents. Notice (May 4, 2017); 82 FR 21827-29 (May 10, 2017); *see also* Notice of Correction (May 30, 2017); 82 FR 25811 (June 5, 2017). The Commission issued a limited exclusion order ("LEO") and a cease and desist order ("CDO") against Arista. *Id.* The Commission did not find a violation with respect to the '853, '875, '492, and '211 patents. *Id.*

On June 30, 2017, Cisco filed a notice of appeal with the United States Court of Appeals for the Federal Circuit ("Federal Circuit"), seeking review of the Commission's finding of no violation. *Cisco Sys., Inc. v. Int'l Trade Comm'n*, Appeal No. 17-2289. On July 21, 2017, Arista filed a notice of appeal with the Federal Circuit, seeking review of the Commission's finding of violation. *Arista Networks, Inc. v. Int'l Trade Comm'n*, Appeal No. 17-2336. On August 3, 2017, the Federal Circuit consolidated the Arista and Cisco appeals. *Cisco Sys., Inc. v. Int'l Trade Comm'n*, Appeal No. 17-2289, Dkt. No. 20. The consolidated appeal is currently pending before the Federal Circuit.

On August 25, 2017, Arista filed a motion with the Federal Circuit seeking to stay the Commission's remedial orders pending resolution of the appeal on the merits. On September 22, 2017, the Federal Circuit denied this request "subject to the condition that the product redesign on which Cisco relies to deny irreparable harm must be permitted to enter the country, without being blocked by the Commission order under review in this case, unless and until Commission proceedings are initiated and completed to produce an enforceable determination that such a redesign is barred by the order here under review or by a new or amended order." *Cisco Sys, Inc. v. ITC; Arista Networks, Inc. v. ITC*, Appeal Nos. 2017-2289, -2351, Order at 3 (Fed. Cir. Sept. 22, 2017).

On September 27, 2017, Cisco petitioned for a modification proceeding to determine whether Arista's redesigned switches infringe the patent claims that are the subject of the LEO and CDO issued in this investigation and for modification of the remedial orders to specify the status of these redesigned products. On October 10, 2017, Arista filed its opposition to Cisco's petition. On October 17, 2017, Cisco filed a Motion for Leave to Submit a Reply in Support of Its Petition for a

Modification Proceeding. The Commission grants Cisco's motion to file a reply.

The Commission has determined that the request complies with the requirements for institution of a modification proceeding under Commission Rule 210.76. Accordingly, the Commission has determined to institute a modification proceeding and has delegated the proceeding to the Chief Administrative Law Judge to designate a presiding Administrative Law Judge. Cisco, Arista, and OUII are named as parties to the proceeding.

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: October 27, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017-23785 Filed 10-31-17; 8:45 am]

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INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731-TA-1186-1187 (Review)]

Certain Stilbenic Optical Brightening Agents From China and Taiwan; Determinations

On the basis of the record¹ developed in the subject five-year reviews, the United States International Trade Commission ("Commission") determines, pursuant to the Tariff Act of 1930 ("the Act"), that revocation of the antidumping duty orders on certain stilbenic optical brightening agents from China and Taiwan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission, pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)), instituted these reviews on April 3, 2017 (82 FR 16226) and determined on July 7, 2017 that it would conduct expedited reviews (82 FR 37237, August 9, 2017).

The Commission made these determinations pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determinations

¹ The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

in these reviews on October 27, 2017. The views of the Commission are contained in USITC Publication 4737 (October 2017), entitled *Certain Stilbenic Optical Brightening Agents from China and Taiwan: Investigation Nos. 731-TA-1186-1187 (Review)*.

By order of the Commission.

Issued: October 27, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017-23797 Filed 10-31-17; 8:45 am]

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INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Batteries and Electrochemical Devices Containing Composite Separators, Components Thereof, and Products Containing Same, DN 3269*; the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205-2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at <https://edis.usitc.gov>, and 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 Internet server at United States International Trade Commission (USITC) at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at <https://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: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of LG Chem, Ltd.; LG Chem Michigan Inc.; LG Chem Power Inc.; and Toray Industries, Inc. on October 25, 2017. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain batteries and electrochemical devices containing composite separators, components thereof, and products containing same. The complaint names as respondents Amperex Technology Limited of Hong Kong; DJI Technology Co., Ltd. of China; DJI Technology, Inc. of Burbank, CA; Guangdong OPPO Mobile Telecommunications Corp., Ltd. of China; and OPPO Digital, Inc. of Menlo Park, CA. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation 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 requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

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

(iv) indicate whether complainant, complainant's licensees, and/or third

party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number ("Docket No. 3269") in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, Electronic Filing Procedures.)¹ 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 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,

¹ Handbook for Electronic Filing Procedures: https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.