

9,901,123 (“the ’123 patent”) (collectively, “the Asserted Patents”). The complaint also alleges the existence of a domestic industry. The notice of investigation names five respondents: ACS Altria Group, Inc. (“AGI”), and PM USA, all of Richmond, Virginia; Philip Morris International Inc. (“PMI”) of New York, New York; and Philip Morris Products S.A. of Neuchatel, Switzerland (collectively, “Respondents”). *See id.* The Office of Unfair Import Investigations (“OUII”) is also a party to the investigation. *See id.*

The Commission previously terminated respondents AGI and PMI from the investigation based on Complainants’ partial withdrawal of the complaint. *See* Order No. 24 (Dec. 14, 2020), *unreviewed by* Comm’n Notice (Jan. 5, 2021).

The Commission previously affirmed that the economic prong of the domestic industry requirement is satisfied under 19 U.S.C. 1337(a)(3)(A) with respect to the ’238 and ’915 patents and provided supplemental analysis. Order No. 35 (Jan. 19, 2021), *affirmed in part by* Notice (Feb. 18, 2021).

On May 14, 2021, the presiding ALJ issued the final initial determination on violation (“FID”), which finds a violation of section 337 based on infringement of the ’123 patent and the ’915 patent and finds no violation as to the ’238 patent.

On June 15, 2021, both Complainants and Respondents filed submissions on the public interest pursuant to Commission Rule 210.50(a)(4). OUII did not file a statement on the public interest. The Commission also received seven filings in response to its **Federal Register** notice calling for public interest comments. *See* 86 FR 28382 (May 16, 2021).

On July 27, 2021, the Commission determined to review the FID in part. 86 FR 41509–11 (Aug. 2, 2021). Specifically, the Commission determined to review: (1) As to the ’915 patent, the ALJ’s construction of the limitation “electrical energy source” recited in asserted claims 1 and 3 and the FID’s infringement, technical prong, and invalidity findings to the extent they may be affected by a modified claim construction; (2) as to the ’123 patent, the FID’s obviousness and domestic industry findings; and (3) as to the ’238 patent, the FID’s infringement finding. *Id.* The Commission also asked the parties to address a question related to the issues under review regarding the ’915 patent. *Id.* The Commission further requested briefing on remedy, bonding, and the public interest. *Id.*

On August 10, 2021, Complainants, Respondents, and OUII each filed an

initial written response to the Commission’s request for briefing. On August 17, 2021, Complainants and Respondents each filed a reply submission. On August 20, 2021, OUII filed its reply submission.

On August 5, 6, 9, and 10, 2021, twenty-nine members of the public submitted public interest submissions. On August 9, 2021, the Hispanic Leadership Fund and the National Minority Quality Form filed public interest submissions. On August 10, 2021, Nextera Healthcare filed a public interest submission. On August 11, 2021, Tom Miller, the Attorney General of Iowa, filed a public interest submission.

On September 13, 2021, Respondents filed Respondents’ Motion to Take Judicial Notice of Recent Regulatory Determinations and District Court Opinion. On September 15, 2021, Complainants filed Complainants’ Opposition to Respondents’ Motion to Take Judicial Notice of Recent Regulatory Determinations and District Court Opinion. The Commission has determined to deny the motion, but has considered the parties’ submissions in its consideration of the public interest factors.

Having reviewed the record of the investigation, including the FID and the parties’ submissions, the Commission has found a violation of section 337 as to claims 1–3, and 5 of the ’915 patent and claims 27–30 of the ’123 patent. Specifically, with respect to the ’915 patent, the Commission has determined to: (1) Modify the construction of the limitation “electrical energy source” recited in asserted claims 1 and 3 to mean “receptacle that provides for transmission of electrical current from the power source to the heating member, where the receptacle is not limited to a structure that requires wiring or insertion”; and (2) affirm the FID’s findings as to infringement, technical prong, and invalidity findings under the modified claim construction. With respect to the ’123 patent, the Commission has determined to: (1) Affirm, with supplemental analysis, the FID’s finding that Respondents failed to prove claims 27–30 of the ’123 patent are invalid for obviousness under 35 U.S.C. 103; and (2) take no position as to the FID’s findings with respect to the economic prong of the domestic industry requirement under subsection 337(a)(3)(A). The Commission has further determined to affirm the FID’s non-infringement finding for the ’238 patent.

The Commission has determined that the appropriate remedy is: (1) A limited exclusion order prohibiting the

importation of tobacco heating articles and components thereof that infringe claims 1–3, and 5 of the ’915 patent and claims 27–30 of the ’123 patent; and (2) cease and desist orders directed to respondents PM USA and ACS. The Commission has determined that the public interest factors do not preclude issuance of the limited exclusion order or the cease and desist orders. The Commission has further determined that no bond is required during the period of Presidential review. *See* 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 Commission vote for this determination took place on September 29, 2021.

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 29, 2021.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2021–21626 Filed 10–4–21; 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 Barcode Scanners, Mobile Computers with Barcode Scanning Capabilities, Scan Engines, and Components Thereof, DN 3570*; 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>. 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 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 Honeywell International Inc.; Hand Held Products, Inc.; and Metrologic Instruments, Inc. on September 29, 2021. 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 barcode scanners, mobile computers with barcode scanning capabilities, scan engines, and components thereof. The complainant names as respondents: Zebra Technologies Corporation of Lincolnshire, IL; and Symbol Technologies, Inc. of Holtsville, NY. 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 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 on the public interest 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. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due. No other submissions will be accepted, unless requested by the Commission. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number ("Docket No. 3570") in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, Electronic Filing Procedures.<sup>1</sup>) Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, <https://edis.usitc.gov>.) No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding filing should

contact the Secretary at [EDIS3Help@usitc.gov](mailto:EDIS3Help@usitc.gov).

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,<sup>2</sup> solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.<sup>3</sup>

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: September 30, 2021.

**Lisa Barton,**

*Secretary to the Commission.*

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## JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

### Meeting of the Advisory Committee; Meeting

**AGENCY:** Joint Board for the Enrollment of Actuaries.

**ACTION:** Notice of Federal Advisory Committee meeting.

**SUMMARY:** The Joint Board for the Enrollment of Actuaries gives notice of a closed teleconference meeting of the

<sup>2</sup> All contract personnel will sign appropriate nondisclosure agreements.

<sup>3</sup> Electronic Document Information System (EDIS): <https://edis.usitc.gov>.

<sup>1</sup> 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).