

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1346]

Certain Marine Air Conditioning Systems, Components Thereof, and Products Containing the Same; Notice of a Commission Determination To Review in Part and, on Review, To Affirm With Modification a Final Initial Determination Finding No Violation; Termination of Investigation

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in part and, on review, to affirm with modification a final initial determination (“FID”) of the presiding administrative law judge (“ALJ”). The investigation is terminated.

FOR FURTHER INFORMATION CONTACT:

Namo Kim, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-3459. 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. 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: On December 7, 2022, the Commission instituted this investigation based on a complaint, as supplemented, filed by Dometic Corporation of Rosemont, Illinois and Dometic Sweden AB of Solna, Sweden (collectively, “Dometic”). 87 FR 76216-17 (Dec. 13, 2022). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (“section 337”) based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain marine air conditioning systems, components thereof, and products containing same by reason of the infringement of certain claims of U.S. Patent No. 8,056,351 (“the ‘351 patent”). *Id.* The complaint further alleges that a domestic industry (“DI”) exists. *Id.* The notice of institution named four (4)

respondents: (1) Shanghai Hopewell Industrial Co. Ltd. of Shanghai, China; (2) Shanghai Hehe Industrial Co. Ltd. of Shanghai, China; (3) CitiMarine, L.L.C. of Doral, Florida; and (4) Mabru Power Systems, Inc. of Dania Beach, Florida (collectively, “Respondents”). *Id.*

On August 28, 2023, the Commission granted in part summary determination that the economic prong of the DI requirement is satisfied. Order No. 23, *unreviewed by Comm’n Notice* (Aug. 28, 2023).

On September 13, 2023, the Commission affirmed an initial determination granting in part summary determination of invalidity of claims 1-2, 4-5, 7 of the ‘351 patent. Order No. 19, *aff’d by Comm’n Notice* (September 13, 2023).

The presiding ALJ held an evidentiary hearing on September 18-21, 2023.

On October 31, 2023, the Commission affirmed an initial determination terminating the investigation with respect to claims 3, 11 and 17 of the ‘351 patent. Order No. 30, *unreviewed by Comm’n Notice* (October 31, 2023). Accordingly, at the time the FID was issued, claims 18-22 of the ‘351 patent remained pending.

On December 8, 2023, the ALJ issued the FID finding no violation of section 337. Specifically, the FID finds that Dometic failed to show infringement or to satisfy the technical prong of the DI requirement because “the DI Products do not possess two axes” as required by the remaining asserted claims under the FID’s claim construction. Despite finding no infringement, the ALJ conducted an independent analysis of the accused products beyond the infringement theories presented by Dometic and determined that some accused products satisfy all limitations of the asserted claims. Lastly, the FID finds that all remaining asserted claims are valid.

The FID also includes a Recommended Determination (“RD”) recommending, should the Commission find a violation of section 337, that the Commission issue: (1) a limited exclusion order with the Commission’s standard certification provision, which does not identify non-infringing articles as requested by the respondents; and (2) a cease-and-desist order against any respondent found to be in violation. The RD further recommends that the Commission set no bond (zero percent) during the period of Presidential review.

On December 22, 2023, both parties (Dometic and Respondents) petitioned for Commission review of FID’s findings. Specifically, Dometic requests Commission review of the FID’s findings concerning: (1) claim

construction; (2) non-infringement; (3) the technical prong of the DI requirement; and (4) validity of the asserted claims concerning the claim construction and secondary considerations. Respondents request Commission review of the FID’s findings concerning: (1) the technical prong; (2) certain factual findings related to infringement; (3) excluding Respondents’ failure of proof arguments related to infringement; and (4) validity, in particular whether a certain product qualifies as prior art and whether the ALJ abused his discretion by excluding a certain prior art exhibit. Respondents also request contingent review of the following issues: (1) claim construction and (2) validity.

On December 27, 2023, the Commission published its post-RD **Federal Register** notice seeking submissions on public interest issues raised by the relief recommended by the ALJ should the Commission find a violation. 88 FR 89466-67 (Dec. 27, 2023). No responses were filed from the public.

On January 4, 2024, both parties (Dometic and Respondents) responded to each other’s petition for review of the FID.

On January 9, 2024, both parties (Dometic and Respondents) filed a statement on the public interest pursuant to Commission Rule 210.50(a)(4), 19 CFR 210.50(a)(4).

The Commission, having reviewed the record in this investigation, including the FID and the parties’ petitions and responses thereto, has determined to review in part and, on review, to affirm with modification the FID’s finding of no violation. In particular, the Commission reviews and, on review, supplements with supporting extrinsic evidence the FID’s construction of the claim limitation “the blower being rotatable about [a] first axis so that the outlet can be oriented toward a first direct[i]on and a second direction, and the first and second directions point to substantially different lateral sides of the main body” recited in claim 18 of the ‘351 patent. The Commission has also determined to review the FID’s findings concerning infringement and the technical prong of the DI requirement and, on review, to affirm the FID’s finding of non-infringement and non-satisfaction of the technical prong, but to vacate the ALJ’s independent findings that some of the accused products (*i.e.*, Mabru SC07, which represents all Mabru accused products) satisfy all limitations of the asserted claims, as well as the ALJ’s independent technical prong findings on the DI products. The Commission

has further determined to review and, on review, to take no position on certain of the FID's invalidity findings and the findings that certain accused products satisfy a dependent claim limitation of the '351 patent. The Commission has determined not to review the remainder of the FID.

The Commission issues its opinion herewith setting forth its determinations on certain issues. The investigation is terminated.

The Commission vote for this determination took place on March 7, 2024.

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: March 7, 2024.

Katherine Hiner,

Supervisory Attorney.

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INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1291]

Certain Replacement Automotive Lamps; Notice of the Commission's Final Determination Finding No Violation of Section 337; Termination of the Investigation

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined that complainants Kia Corporation and Kia America, Inc. failed to demonstrate a violation of section 337 of the Tariff Act of 1930, as amended, by any of the named respondents in the above-captioned investigation. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Robert Needham, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708-5468. 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. General information concerning the Commission may also be obtained by accessing its

internet server (<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: On January 24, 2022, the Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 ("section 337"), based on a complaint filed on behalf of complainants Kia Corporation of Seoul, Korea and Kia America, Inc. of Irvine, California (collectively, "Kia"). 87 FR 3584-85 (Jan. 24, 2022). The complaint, as supplemented and amended, alleges a violation of section 337 in the importation into the United States, the sale for importation, and the sale after importation within the United States after importation of certain replacement automotive lamps by reason of infringement of U.S. Design Patent Nos. D592,773 (the "'773 patent"); D635,701 (the "'701 patent"); D636,506 (the "'506 patent"); D650,931 (the "'931 patent"); D695,933 (the "'933 patent"); D705,963 (the "'963 patent"); D709,218 (the "'218 patent"); D714,975 (the "'975 patent"); D714,976 (the "'976 patent"); D720,871 (the "'871 patent"); D749,757 (the "'757 patent"); D749,762 (the "'762 patent"); D749,764 (the "'764 patent"); D774,222 (the "'222 patent"); D774,223 (the "'223 patent"); D776,311 (the "'311 patent"); D781,471 (the "'471 patent"); D785,833 (the "'833 patent"); D785,836 (the "'836 patent"); and D792,989 (the "'989 patent") (together, "Asserted Patents"). *Id.* at 3584. The notice of investigation names as respondents TYC Brother Industrial Co., Ltd. of Tainan, Taiwan; Genera Corporation (dba TYC Genera) of Brea, California; LKQ Corporation of Chicago, Illinois; and Keystone Automotive Industries, Inc. of Exeter, Pennsylvania (together, "Respondents"). The Office of Unfair Import Investigations is not participating in this investigation.

On February 7, 2022, the Chief ALJ ("CALJ") ordered an evidentiary hearing for both Inv. Nos. 337-TA-1291 and 337-TA-1292 on the economic prong pursuant to the Commission's pilot program for interim initial determinations ("IID"). Order No. 6 (Feb. 7, 2022). The combined evidentiary hearing was held on April 20, 2022. On July 1, 2022, the CALJ issued an IID finding that Kia has satisfied the economic prong of the domestic industry requirement with respect to all of the asserted design patents. On August 24, 2022, the Commission determined to review the IID. Notice (Aug. 24, 2022). The

investigation was reassigned to the presiding ALJ on July 6, 2022.

On January 24, 2023, the presiding ALJ issued a final initial determination ("Final ID") finding a violation of section 337 by Respondents with respect to the '773, '701, '506, '931, '933, '218, '975, '976, '871, '762, '764, '222, '223, '311, '833, '836, and '989 patents. Final ID at 1. The Final ID finds no violation with respect to the '963, '757, and '471 patents based on noninfringement and failure to satisfy the technical prong of the domestic industry requirement. *Id.* at 1, 284-86. The Final ID also finds that no asserted patent is invalid as anticipated or obvious. *Id.* Concerning the economic prong of the domestic industry requirement, the Final ID reduced Kia's alleged investments due to Kia's failure to establish that certain of its alleged domestic industry products are representative of other alleged domestic industry products, but finds that the economic prong of domestic industry requirement is satisfied for all of the Asserted Patents. *Id.* at 33-37.

On February 6, 2023, Respondents filed a petition for review challenging the Final ID's findings on the economic prong of the domestic industry requirement, infringement, and validity. Also on February 6, 2023, Kia filed a petition for review challenging the Final ID's findings of noninfringement and contingently petitioning regarding the Final ID's findings concerning non-satisfaction of the technical prong of the domestic industry requirement regarding the '963, '757, and '471 patents. On February 14, 2023, Kia and Respondents filed responses to each other's petitions.

On January 25, 2023, the Commission requested submissions regarding the public interest. 88 FR 5919-20 (Jan. 30, 2023). The Commission received submissions from Thomas Lee, Dennis Shiao, Peter Nguyen, John Chang, Raymond Tsai, Christopher Patti, Edward Salamy, Paul Tetrault, Clark Plucinski, Gay Gordon-Byrne, the Alliance for Automotive Innovation, and Gregory Cote. On February 23, 2023, the Commission also received submissions on the public interest from Respondents pursuant to Commission Rule 210.50(a)(4). 19 CFR 210.50(a)(4).

On May 11, 2023, the Commission determined to review the Final ID in its entirety and sought briefing from the parties on certain issues and briefing from the parties, interested government agencies, and the public concerning remedy, bonding, and the public interest. 88 FR 31520-22 (May 17, 2023). Kia and Respondents filed initial