

**ALABAMA****Baldwin County**

Jenkins Farm and House (Boundary Increase),  
29040 Jenkins Farm Rd., Loxley,  
BC100009548

**Lowndes County**

Campsite 2: Rosie Steele Property, 5892–5876  
Highway 80 W, White Hall vicinity,  
SG100009549

**Morgan County**

Simpson's Florist, 902 6th Avenue SE,  
Decatur, SG100009550

**KANSAS****Douglas County**

Lone Star Lake Civilian Conservation Corps  
(CCC) Camp, (New Deal-Era Resources of  
Kansas MPS), 660 E 665 Road, Lawrence  
vicinity, MP100009545

**WEST VIRGINIA****Morgan County**

Paw Paw Old Mayor's Office and Jail, 93 Lee  
Street, Paw Paw, SG100009542

**Randolph County**

Davis & Elkins College Historic District  
Portions of Campus Drive, Harpertown Road,  
Graceland Drive, Allen Street & Residential  
Drive, and College Drive, Elkins,  
SG100009540

**Wayne County**

Stark, Henry and Julia Hoard, House, 359 B  
Street, Ceredo, SG100009543

**Wood County**

Downtown Parkersburg Historic District,  
Portions of Juliana, Market, Avery, and  
Second through Eighth Streets and  
Williams Court Alley and Phillips Court  
Alley, Parkersburg, SG100009541

**WISCONSIN****Dane County**

Willard and Fern Tompkins House, 110  
Henuah Circle, Monona, SG100009539

A request for removal has been made  
for the following resource(s):

**NORTH DAKOTA****Golden Valley County**

Sentinel Butte Public School, Byron St.,  
Sentinel Butte, OT82001313

Additional documentation has been  
received for the following resource(s):

**ILLINOIS****Kane County**

Aurora Broadway Historic District  
(Additional Documentation), Roughly  
bounded by the Fox R., East New York St.,  
the Burlington Northern & Santa Fe  
Railroad tracks, and East Benton St.,  
Aurora, AD100008483

**MISSISSIPPI****Panola County**

Como Commercial Historic District, (Johnson,  
Andrew, Architecture in North Mississippi

TR), Roughly bounded by Elder Frank  
Ward St. on the W and N Main St. on the  
E. On the N bounded by Church Ave.,  
Como, AD08000675

*Authority:* Section 60.13 of 36 CFR  
part 60.

**Sherry A. Frear,**

*Chief, National Register of Historic Places/  
National Historic Landmarks Program.*

[FR Doc. 2023–22771 Filed 10–13–23; 8:45 am]

**BILLING CODE 4312–52–P**

**INTERNATIONAL TRADE  
COMMISSION**

[Investigation No. 337–TA–1363]

**Certain Lidar (Light Detection and  
Ranging) Systems and Components  
Thereof; Notice of Commission  
Determination To Review and, on  
Review, To Affirm With Modification an  
Initial Determination Terminating the  
Investigation in Its Entirety Based on  
an Arbitration Agreement; Termination  
of Investigation**

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

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that  
the U.S. International Trade  
Commission has determined to review  
and, on review, to affirm with  
modification an initial determination  
("ID") (Order No. 10) of the presiding  
administrative law judge ("ALJ")  
granting a motion to terminate the  
investigation in its entirety based upon  
an arbitration agreement. 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](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 on (202)  
205–1810.

**SUPPLEMENTARY INFORMATION:** On May  
17, 2023, 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 by Ouster, Inc. of San  
Francisco, CA ("Ouster"). *See* 88 FR  
31519–20 (May 17, 2023). The  
complaint alleges violations of 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 LiDAR  
(Light Detection and Ranging) systems  
and components thereof by reason of the  
infringement of certain claims of U.S.  
Patent Nos. 11,175,405; 11,178,381;  
11,190,750; 11,287,515; and 11,422,236.  
*Id.* The notice of investigation names as  
respondents Hesai Group of Shanghai,  
China; Hesai Technology Co., Ltd. of  
Shanghai, China; and Hesai Inc. of Palo  
Alto, CA (collectively, "Hesai"). *Id.* The  
Office of Unfair Import Investigations  
("OUII") is also participating in this  
investigation. *Id.*

On June 22, 2023, Hesai filed a  
motion to terminate or alternatively stay  
the investigation in its entirety based  
upon an arbitration provision in a 2020  
Litigation Settlement and Patent Cross-  
License Agreement ("Settlement  
Agreement") between Hesai Photonics  
Technology Co. Ltd. ("Hesai Photonics,"  
a subsidiary of respondent Hesai Group)  
and Velodyne Lidar, Inc. ("Velodyne,"  
now merged with Ouster). On July 7,  
2023, Ouster filed an opposition to the  
motion and OUII filed a response in  
support of the motion. On July 12, 2023,  
a case management conference was held  
to give each of the parties an  
opportunity to discuss the motion to  
terminate or stay.

On July 17, 2023, Ouster filed a  
supplemental brief. On July 18, 2023,  
OUII filed a sur-reply to Ouster's  
opposition. On July 20, 2023, Hesai filed  
a sur-reply to Ouster's opposition.

On August 24, 2023, the ALJ issued  
the subject ID (Order No. 10) pursuant  
to Commission Rule 210.21(d), 19 CFR  
210.21(d), granting the motion to  
terminate the investigation in its  
entirety under 19 U.S.C. 1337(c) because  
of an arbitration agreement. In  
particular, the ID finds that (1) "a valid  
arbitration agreement at ¶ 9.5 exists as  
part of the Settlement Agreement that  
binds Ouster and Hesai," (2) "the  
arbitrability of the dispute between  
Ouster and Hesai . . . rests with  
[Judicial Arbitration and Mediation  
Services, Inc.], London," and (3) "Hesai  
did not waive its right to arbitrate as  
Ouster argues." *See* ID at 4.

On August 31, 2023, Ouster filed a  
petition for review of the ID with the  
Commission. On September 8, 2023,  
Hesai and OUII filed their responses to  
Ouster's petition.

On September 12, 2023, Ouster filed  
a notice of recent developments  
explaining that, on September 5, 2023,

Hesai filed petitions for *inter partes* review before the Patent Trial and Appeal Board with respect to two of the patents at issue in this investigation. On September 14, 2023, Hesai and OUII filed their responses to Ouster's notice of recent developments.

The Commission has determined to review and, on review, to affirm the subject ID with modification. In particular, the Commission strikes the "wholly groundless" legal standard discussion and analysis at pages 11–12 and 16 of the subject ID, including the following statements: (1) "[T]he ALJ then must make a secondary inquiry to determine whether the assertion of arbitrability is 'wholly groundless.' If it is determined that the assertion of arbitrability is not 'wholly groundless.'" ID at 11. (2) "Therefore, Hesai's claim for arbitration is not 'wholly groundless.'" ID at 11–12. (3) "In other words, the demand for arbitration is 'not wholly groundless.'" ID at 16. The Supreme Court previously overruled the "wholly groundless" exception, holding that "[w]hen the parties' contract delegates the arbitrability question to an arbitrator, a court may not override the contract . . . even if the court thinks that the argument that the arbitration agreement applies to a particular dispute is wholly groundless . . . In sum, we reject the 'wholly groundless' exception." *Henry Schein, Inc. v. Archer & White Sales, Inc.*, 139 S. Ct. 524, 529–31 (2019).

The Commission also addresses a typographical error at page 10 of the subject ID by modifying "See *id.* at ¶ 9.5" to state "See *id.* at ¶ 9.4." This is a citation for the sentence in the subject ID that states "[t]he Choice of Law for purposes of construing the Settlement Agreement is designated as California law," and Section 9.4 of the Settlement Agreement on "Governing Law" is the section that determines the choice of law for the Settlement Agreement.

With regard to Ouster's notice of recent developments, the Commission finds that, under the facts of this investigation, Hesai's separately filed *inter partes* review petitions do not prevent the Commission from determining that the investigation must be terminated in favor of arbitration. The Commission also notes that the Settlement Agreement provides that "either Party shall have the right to challenge the validity and enforceability of any Patent in defense to a suit or assertion of a claim relating to any such Patent that is brought against a Party or alleging infringement by a Licensee Product or a Velodyne Product." Settlement Agreement section 3.4 ("Contesting Validity").

The investigation is terminated. The Commission vote for this determination took place on October 10, 2023.

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 11, 2023.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2023–22754 Filed 10–13–23; 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 (CERCLA)

On October 10, 2023, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of Nebraska in the lawsuit entitled *United States of America v. Dravo Corp., et al.*, Civ. No. 8:01–cv–00500–JFB–TBT (D. Neb.).

The proposed consent decree resolves claims against Desco Corporation pursuant to section 107(a) CERCLA for response costs incurred and to be incurred by EPA for Operable Unit 01 of the Hastings Groundwater Contamination Superfund Site and requires the Defendant to make a payment of \$131,067 to EPA.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States of America v. Dravo Corp., et al.*, D.J. Ref. No. 90–11–2–1260/10. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By email .....	<a href="mailto:pubcomment-ees.enrd@usdoj.gov">pubcomment-ees.enrd@usdoj.gov</a> .
By mail .....	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the consent decree may be examined

and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for \$3.75 (25 cents per page reproduction cost) payable to the United States Treasury.

**Patricia McKenna,**

*Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 2023–22775 Filed 10–13–23; 8:45 am]

**BILLING CODE 4410–15–P**

## DEPARTMENT OF LABOR

### Office of the Secretary

#### Senior Executive Service; Appointment of Members to the Performance Review Board

Title 5 U.S.C. 4314(c)(4) provides that Notice of the Appointment of the individual to serve as a member of the Performance Review Board of the Senior Executive Service shall be published in the **Federal Register**.

The following individuals are hereby appointed to serve on the Department's Performance Review Board:

#### Permanent Membership

Chair—Nikki McKinney, Associate Deputy Secretary  
Vice-Chair—Carolyn Angus-Hornbuckle, Assistant Secretary for Administration and Management  
Alternate Vice-Chair—Sydney Rose, Chief Human Capital Officer

#### Rotating Membership—Appointments Expire on 09/30/26

BLS Tony Williams, Associate Commissioner for Technology and Survey Processing  
EBSA Amber Rivers, Director of Health Plan Standards and Compliance Assistance  
ETA Nicholas Lalpuis, Regional Administrator, Dallas  
ILAB Molly McCoy, Associate Deputy Undersecretary  
MSHA Brian Goepfert, Administrator for Mine Safety and Health Enforcement  
OASAM Carl Campbell, Senior Procurement Executive  
ODEP Jennifer Sheehy, Deputy Assistant Secretary