INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1118 (Remand)]

Certain Movable Barrier Operator Systems and Components Thereof; Notice of a Final Determination Finding a Violation of Section 337 and Issuing a Limited Exclusion Order and Cease and Desist Orders; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (''Commission'') has determined that respondents Nortek Security & Control, LLC of Carlsbad, California (presently doing business as Nice North America LLC); Nortek, Inc. of Providence, Rhode Island; and GTO Access Systems, LLC of Tallahassee, Florida (collectively, ''Nortek'') have violated section 337 of the Tariff Act of 1930, as amended, by importing, selling for importation, or selling in the United States after importation certain movable barrier operators (including garage door operators) and components thereof that infringe claim 11 of U.S. Patent No. 8,587,404 (''the '404 patent''). The Commission has determined that the appropriate remedies are a limited exclusion order (''LEO'') and cease and desist orders (''CDOs'') against Nortek. The Commission has also determined to set a bond in the amount of zero percent (0%) of the entered value of the excluded products imported during the period of Presidential review. This investigation is hereby terminated.

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 The Chamberlain Group, Inc. (''Chamberlain'') of Oak Brook, Illinois. 83 FR 27020–21 (June 11, 2018). The complaint accuses Nortek of violating section 337 of the Tariff Act, as amended, 19 U.S.C. 1337 (''section 337'') by importing, selling for importation, or selling in the United States after importation certain movable barrier operator systems that infringe one or more of the asserted claims of the '404 patent and U.S. Patent Nos. 7,755,223 (''the '223 patent'') and 6,741,052 (''the '052 patent''). *Id.* The complaint also alleges the existence of a domestic industry. The Office of Unfair Import Investigations is not a party to the investigation.

On November 25, 2019, the presiding administrative law judge (''ALJ'') issued two initial determinations (''IDs''). First, the ALJ issued Order No. 38, granting Chamberlain's motion for summary determination that it satisfied the economic prong of the domestic industry requirement (''DI economic prong''). Order No. 38 (Nov. 25, 2019). Second, the ALJ issued a final ID on violation, as well as a recommended determination (''RD'') on remedy and bond. The final ID finds no violation of section 337 because: (i) Nortek did not infringe claim 11 of the '404 patent; (ii) Nortek did not infringe the '223 patent and Chamberlain did not satisfy the technical prong of the domestic industry requirement (''DI technical prong'') for that patent; and (iii) asserted claim 1 of the '052 patent is invalid as obvious. The RD recommends issuing an LEO and CDOs against Nortek and setting the bond of 100 percent during the period of Presidential review.

On April 22, 2020, the Commission determined to review and, on review, to adopt the final ID's no-violation finding for the '404 patent, which was based on a narrow construction of the limitation ''movable barrier operator'' that excluded the wall station. Comm'n Notice at 3 (Apr. 22, 2020). The Commission took no position on the final ID's finding that Nortek failed to prove that claim 11 of the '404 patent is patent ineligible under 35 U.S.C. 101. The Commission also adopted the final ID's finding that there was no violation with respect to the '052 patent because the asserted claim is obvious. At the same time, the Commission vacated Order No. 38 and remanded the economic prong issue to the ALJ for further proceedings with respect to the '223 patent. *Id.;* Order Vacating and Remanding Order No. 38 (Apr. 22, 2020) (''First Remand Order'').

The ALJ, after re-analyzing the domestic industry per the Commission's instructions, issued a Remand Initial Determination (''First RID'') on July 10, 2020. The First RID finds that Chamberlain made significant investments in plant and equipment as well as labor and capital, which satisfied the DI economic prong for the '223 patent under sections 337(a)(3)(A) and (B), respectively.

On September 9, 2020, the Commission determined to review the First RID and requested additional briefing by the parties on issues relating to the DI economic prong and remedy, bond, and the public interest. 85 FR 57249–50 (Sept. 14, 2020).

On December 3, 2020, the Commission determined to adopt the First RID's findings that Chamberlain had satisfied the DI economic prong under subsections 337(a)(3)(A) and (B). 85 FR 79217–18 (Dec. 9, 2020). The Commission reversed the final ID's non-infringement finding for the '223 patent, finding instead that Nortek violated section 337 by infringing the '223 patent. *Id.* Finding that the public interest did not preclude relief, the Commission issued an LEO and CDOs against Nortek and set the bond at 100 percent of entered value. Comm'n Op. at 34–39, 41.

On June 16, 2020, Chamberlain appealed the Commission's no-violation determinations for the '404 patent and '052 patent (which expired while the appeal was pending). On April 1, 2021, Nortek cross-appealed the Commission's violation determination for the '223 patent.

On April 27, 2023, the Federal Circuit issued its decision, in which it: (i) affirmed the Commission's violation determination for the '223 patent; (ii) for the '404 patent, reversed the Commission's construction of the term ''movable barrier operator,'' vacated its non-infringement, waiver, and no-violation determinations, and remanded with instructions to the Commission to re-evaluate infringement of the '404 patent using a proper claim construction; and (iii) vacated the Commission's determinations for the expired '052 patent and remanded with instructions to dismiss the infringement claim as moot. The *Chamberlain Group, Inc.* v. *ITC,* Appeal Nos. 20–1965, 21–1829, 2023 WL 3115579 at *1, *4–7 (Fed. Cir. Apr. 27, 2023).

On August 4, 2023, the Commission issued a notice asking the parties which issues needed to be resolved in view of the Federal Circuit's remand and whether additional proceedings were necessary. Comm'n Notice (Aug. 4, 2023). The parties filed responses identifying infringement of the '404 patent, patent-ineligibility of claim 11 of the '404 patent under section 101, and

the economic prong of domestic industry with respect to the '404 patent as the violation issues that needed to be resolved. The parties agreed there was no need to reopen the evidentiary record, as it has already been fully developed.

On October 4, 2023, the Commission issued a second notice directing the parties to brief: (i) which, if any, of the accused products infringe claim 11 of the '404 patent under the Court's new construction of ''movable barrier operator'' and (ii) whether the ID properly finds that claim 11 is not patent-ineligible under 35 U.S.C. 101. Comm'n Notice at 3 (Oct. 4, 2023). The Commission determined not to reopen the evidentiary record. The Commission also remanded the investigation to the ALJ for the sole purpose of determining whether Chamberlain satisfied the DI economic prong for the '404 patent. *See* Remand Order (Oct. 4, 2023) (''Second Remand Order'').

On January 11, 2024, the presiding ALJ issued Order No. 46 directing the parties to provide supplemental information regarding the covered products allegedly protected by the '404 patent, the extent to which domestic investments relating to products covered by the '223 patent were applicable to products covered by the '404 patent, the domestic inventories of products covered by the '404 patent, and other issues relating to the DI economic prong analysis. *See* Order No. 46 (Jan. 11, 2024).

On May 8, 2024, the ALJ issued the Recommended [*sic,* Remand] Initial Determination on Second Remand Order (''Second RID'') presently at issue. Order No. 50 (May 8, 2024). The Second RID finds that Chamberlain has satisfied the DI economic prong for the '404 patent under subsections 337(a)(3)(A), (B), and (C). The Second RID also makes subsidiary findings regarding infringement and the accused Nortek products. The Second RID also notes that the Commission previously found that Chamberlain's domestic industry products (the ''404 DI Products'') practice the '404 patent and Chamberlain thus satisfied the DI technical prong.

On May 20, 2024, Nortek filed a petition for review of the Second RID. On May 28, 2024, Chamberlain filed its opposition to Nortek's petition for review.

On June 28, 2024, the Commission determined to review the Second RID. 89 FR 54038 (June 28, 2024). The Commission also requested briefing on remedy, bond, and the public interest. *Id.*

Upon review of the final ID, the Second RID, the Federal Circuit's decision on appeal, the parties' submissions, and the evidence of record, the Commission finds that Nortek has violated section 337 by importing into the United States, selling for importation, or selling in the United States after importation certain movable barrier operators and components thereof that infringe claim 11 of the '404 patent. As set forth in the accompanying Opinion, the Commission finds that Nortek has infringed claim 11 of the '404 patent, and that claim 11 is not abstract or patent-ineligible under 35 U.S.C. 101. The Commission also finds that Chamberlain has satisfied the DI economic prong per 19 U.S.C. 1337(a)(3)(A), (B), but takes no position on whether it has also satisfied the DI economic prong under section 337(a)(3)(C).

The Commission has determined that the appropriate remedy is: (i) an LEO prohibiting the importation of certain movable barrier operator systems, including garage door operators, and components thereof that infringe claim 11 of the '404 patent; and (ii) a CDO against each Nortek respondents. The Commission has determined that the public interest factors do not preclude issuance of a remedy. The Commission has determined to set a bond in the amount of zero percent (0%) of the entered value of the infringing products imported during the period of Presidential review (19 U.S.C. 1337(j)).

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

The Commission's orders and opinion were delivered to the President and United States Trade Representative on the day of their issuance.

The Commission vote for this determination took place on November 21, 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: November 21, 2024.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2024–27783 Filed 11–26–24; 8:45 am]

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DEPARTMENT OF JUSTICE

[OMB 1140–0062]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Identification of Imported Explosives Materials

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 30 days until December 27, 2024.

FOR FURTHER INFORMATION CONTACT: If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact: Michael O'Lena, Explosives Industry Programs Branch, by email at *eipb-informationcollection@atf.gov* or *michael.olena@atf.gov,* or telephone at (202) 648–7120.

SUPPLEMENTARY INFORMATION: The proposed information collection was previously published in the **Federal Register**, volume 89 page 80933, on Friday, October 4, 2024, allowing a 60-day comment period. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and/or

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms