

investigation in part as to the Schneider Respondents based on settlement. *See* Order No. 15 (Aug. 10, 2020), *unreviewed by Comm'n Notice* (Aug. 31, 2020). On November 27, 2020, the ALJ issued an ID (Order No. 27) granting an unopposed motion for partial termination of the investigation as to the asserted claims of the '753 patent; the asserted claims of the '322 patent and the '371 patent as to ecobee; and the asserted claims of the '497 patent as to Alarm.com. *See* Order No. 27, *unreviewed by Comm'n Notice* (Dec. 15, 2021).

On April 20, 2021, the ALJ issued the final ID in this investigation, holding that no violation of section 337 has occurred in the importation into the United States, the sale for importation, or the sale within the United States after importation, of certain smart thermostats, smart HVAC systems, and components thereof, with respect to asserted claims 1, 2, and 5 of patent '497, asserted claims 1, 2, and 5 of patent '322, and asserted claim 9 of patent '371.

Concerning infringement, the ID finds that respondent Google indirectly infringes all of the asserted claims. Specifically, the ID finds that Google induces infringement of all of the asserted claims and contributorily infringes the asserted claims of the '497 and '371 patents. The ID finds that EcoFactor has not shown that respondents ecobee, Vivint and Alarm.com infringe any of the asserted claims of the asserted patents.

Regarding the domestic industry requirement, the ID finds that EcoFactor has not satisfied the technical or economic prongs of the domestic industry requirement with respect to any of the asserted patents.

Concerning validity, with respect to the '497 patent, the ID finds that asserted claims 1, 2, and 5 have not been shown to be patent ineligible under 35 U.S.C. 101, and have not been shown to be invalid as anticipated or obvious under 35 U.S.C. 102 or 103, respectively. The ID further finds that the asserted claims of the '497 patent have not been shown to be invalid for indefiniteness under 35 U.S.C. 112, ¶ 2. The ID finds, however, that the asserted claims of the '497 patent have been shown to be invalid for lack of written description and enablement under 35 U.S.C. 112, ¶ 1.

As to the '322 patent, the ID finds that asserted claims 1, 2, and 5 have not been shown to be patent ineligible under 35 U.S.C. 101. The ID further finds that the asserted claims of the '322 patent have been shown to be invalid for lack of written description and

enablement under 35 U.S.C. 112, ¶ 1. The ID also finds that the asserted claims of the '322 patent have not been shown to be invalid for indefiniteness under 35 U.S.C. 112, ¶ 2. The ID finds, however, that claim 1 has been shown to be invalid as anticipated under 35 U.S.C. 102, but that claims 2 and 5 have been shown to be invalid as obvious under 35 U.S.C. 103.

With respect to the '371 patent, the ID finds that asserted claim 9 has not been shown to be patent ineligible under 35 U.S.C. 101, and has not been shown to be invalid under 35 U.S.C. 102 or 103.

On May 3, 2021, EcoFactor filed a petition for review of various portions of the ID, and respondent Google filed a contingent review for certain aspects of the ID. On May 4, 2021, respondent ecobee filed a contingent petition for review of certain aspect of the ID.

On May 11, 2021, complainant EcoFactor filed a response to Respondents' petitions for review. Also on May 11, 2021, respondents ecobee, Vivint, and Google each filed their respective responses. On May 12, 2021, OUII filed a response to the private parties' petitions.

Having examined the record in this investigation, including the final ID, the petitions for review, and the responses thereto, the Commission has determined to review in part the ID: (1) To review the language supporting the ID's determination that EcoFactor failed to satisfy the economic prong of the domestic industry requirement under subparagraphs (A) and (B), and on review to strike the last paragraph on page 560 (*see* ID at 560–561); (2) to review the ID's findings regarding induced and contributory infringement, and on review to additionally provide the requisite findings that Google was willfully blind with respect to the asserted patents and thus possessed the requisite knowledge that its products infringe those patents (with the exception of contributory infringement of the '322 patent) (*see* ID at 404–405, 408–409); and (3) to review the ID's conclusions of fact and law Nos. 14 and 22 on page 576, and on review to correct clerical errors so that each of them reads as follows: "Respondents have shown, through clear and convincing evidence, that the asserted claims are invalid under 35 U.S.C. 112, ¶ 1, and have not shown, through clear and convincing evidence, that the asserted claims are invalid under 35 U.S.C. 112, ¶ 2."

The Commission has determined not to review the remainder of the ID, including the ID's finding of no violation of section 337 in this investigation.

The investigation is terminated.

The Commission vote for this determination took place on July 20, 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: July 20, 2021.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2021–15857 Filed 7–23–21; 8:45 am]

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DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Open RF Association, Inc.

Notice is hereby given that, on May 25, 2021 pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Open RF Association, Inc. filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, MixComm Inc., Chatham, NJ; and TMY Technology Inc., New Taipei City, TAIWAN have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Open RF Association, Inc. intends to file additional written notifications disclosing all changes in membership.

On February 21, 2020, Open RF Association, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 11, 2020 (85 FR 14247).

The last notification was filed with the Department on March 11, 2021. A notice was published in the **Federal**

Register pursuant to Section 6(b) of the Act on April 8, 2021 (86 FR 18300).

Suzanne Morris,

Chief, Premerger and Division Statistics, Antitrust Division.

[FR Doc. 2021-15817 Filed 7-23-21; 8:45 am]

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DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Electrified Vehicle and Energy Storage Evaluation

Notice is hereby given that, on June 16, 2021, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), Electrified Vehicle and Energy Storage Evaluation (“EVESE”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, The Dow Chemical Company, Midland, MI, has been added as a party to this venture. In addition, AMTE Power, Ltd., Caithness, UK, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and EVESE intends to file additional written notifications disclosing all changes in membership.

On September 24, 2020, EVESE filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on October 15, 2020 (85 FR 65423).

The last notification was filed with the Department on February 10, 2021. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on March 10, 2021 (86 FR 13750).

Suzanne Morris,

Chief, Premerger and Division Statistics, Antitrust Division.

[FR Doc. 2021-15818 Filed 7-23-21; 8:45 am]

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DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The Institute of Electrical and Electronics Engineers, Inc.

Notice is hereby given that, on May 25, 2021, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), The Institute of Electrical and Electronics Engineers, Inc. (“IEEE”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions or changes to its standards development activities. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, 17 new standards have been initiated and 2 existing standards are being revised. More detail regarding these changes can be found at: <https://standards.ieee.org/about/sasb/sba/may2021.html>.

On September 17, 2004, IEEE filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 3, 2004 (69 FR 64105).

The last notification was filed with the Department on April 5, 2021. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 11, 2021 (86 FR 25887).

Suzanne Morris,

Chief, Premerger and Division Statistics, Antitrust Division.

[FR Doc. 2021-15815 Filed 7-23-21; 8:45 am]

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DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—ASTM International Standards

Notice is hereby given that on May 27, 2021 pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), ASTM International (“ASTM”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions or changes to its standards development activities. The notifications were filed for the purpose of extending the Act’s

provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, ASTM has provided an updated list of current, ongoing ASTM activities originating between February 17, 2021 and May 24, 2021 designated as Work Items. A complete listing of ASTM Work Items, along with a brief description of each, is available at <http://www.astm.org>.

On September 15, 2004, ASTM filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 10, 2004 (69 FR 65226). The last notification with the Department was filed on February 22, 2021. A notice was filed in the **Federal Register** on April 8, 2021 (86 FR 18327).

Suzanne Morris,

Chief, Premerger and Division Statistics, Antitrust Division.

[FR Doc. 2021-15816 Filed 7-23-21; 8:45 am]

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DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—CHEDE-8

Notice is hereby given that, on June 2, 2021, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), CHEDE-8 (“CHEDE-8”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, Dongfeng Commercial Vehicle Co., LTM, Hubei, CHINA, has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and CHEDE-8 intends to file additional written notifications disclosing all changes in membership.

On December 4, 2019, CHEDE-8 filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 30, 2019 (84 FR 71977).