

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

In the Matter of)

CERTAIN RADIOS AND COMPONENTS THEREOF)

Inv. No. 337-TA-476

**NOTICE OF COMMISSION DECISION NOT TO REVIEW AN
INITIAL DETERMINATION GRANTING SUMMARY DETERMINATION
AS TO AN AFFIRMATIVE DEFENSE**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's ("ALJ's") initial determination ("ID") in the above-captioned investigation granting summary determination in complainant's favor as to respondent's fourth affirmative defense.

FOR FURTHER INFORMATION CONTACT: Mark B. Rees, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3116. Copies of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at <http://dockets.usitc.gov/eol/public>. 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 August 14, 2002, the Commission instituted this investigation based on a complaint filed by Bose Corporation ("complainant") against Sun Coast Merchandise Corporation ("respondent"). The complaint alleged violations of section 337 of the Tariff Act of 1930 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain radios and components thereof by reason of infringement of U.S. Trademark Registration No. 2,299,158. *67 Fed. Reg.* 53007 (2002).

On October 15, 2002, complainant moved for partial summary determination as to, *inter alia*, respondent's fourth affirmative defense, which alleged that respondent's design patents shielded respondent from complainant's trademark infringement claims. Respondent opposed the motion and cross-moved for partial summary determination. The Commission investigative attorney filed a response to each motion. On November 8, 2002, the ALJ issued an ID (Order No. 4) granting the complainant's motion as to the fourth affirmative defense. No petitions for review of the ID were filed.

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 section 210.42 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.42).

By order of the Commission.

Marilyn R. Abbott
Secretary to the Commission

Issued: December 3, 2002