

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

In the Matter of

**CERTAIN VIDEO GAME SYSTEMS AND  
CONTROLLERS**

**Inv. No. 337-TA-743**

**NOTICE OF COMMISSION DETERMINATION TO REVIEW AND VACATE AN  
INITIAL DETERMINATION GRANTING SUMMARY DETERMINATION THAT THE  
ECONOMIC PRONG OF THE DOMESTIC INDUSTRY REQUIREMENT IS NOT  
SATISFIED**

**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 vacate an initial determination ("ID") (Order No. 12) granting summary determination that the economic prong of the domestic industry requirement is not satisfied in the above-captioned investigation.

**FOR FURTHER INFORMATION:** Daniel E. Valencia, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-1999. Copies of the 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. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810. 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) at <http://edis.usitc.gov>.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on November 5, 2010, based on a complaint filed by Motiva, LLC of Dublin, Ohio ("Motiva"). 75 *Fed. Reg.* 68379 (Nov. 5, 2010). The complaint alleged violations of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain video game systems and controllers by reason of infringement of two United States Patents. The complaint named Nintendo Co., Ltd. and Nintendo of America Inc. (collectively, "Nintendo") as the only respondents.

On January 6, 2011, Nintendo filed a motion for summary determination that the economic prong of the domestic industry is not satisfied. On January 18, 2011, Motiva and the Commission investigative attorney (“IA”) opposed this motion.

On February 11, 2011, the ALJ issued the subject ID granting Nintendo’s motion for summary determination and terminating the investigation. On March 1, 2011, Motiva and the IA each filed a petition for review of the ALJ’s summary ID. On March 8, 2011, Nintendo opposed both petitions for review.

Having reviewed the summary ID and the submissions by the parties, the Commission has determined to review and vacate the grant of summary determination in the subject ID with respect to the economic prong of the domestic industry requirement. The Commission has determined to remand the investigation to the ALJ to complete the investigation. A Commission Order is issuing herewith, and a Commission Opinion will issue shortly.

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(h) of the Commission’s Rules of Practice and Procedure (19 C.F.R. §§ 210.42(h) and 210.45(c)).

By order of the Commission.

/s/  
James R. Holbein  
Acting Secretary to the Commission

Issued: March 30, 2011