

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

In the Matter of

**CERTAIN MOTION-SENSITIVE SOUND
EFFECT DEVICES AND IMAGE
DISPLAY DEVICES AND
COMPONENTS AND PRODUCTS
CONTAINING SAME**

Inv. No. 337-TA-773

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION THAT CLAIM 3 OF U.S. PATENT NO. 5,825,427 IS INVALID**

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 an initial determination (“ID”) (Order No. 17) granting in part respondents’ motion for summary determination that United States Patent No. 5,825,427 is invalid under 35 U.S.C. § 102(b).

FOR FURTHER INFORMATION: Clark S. Cheney, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-2661. Copies of non-confidential 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 May 19, 2011, based on a complaint filed by Ogma, LLC (“Ogma”). 76 Fed. Reg. 29006. The complaint alleges 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 motion-sensitive sound effects devices and image display devices and components and products containing same by reason of infringement of certain claims of U.S. Patent No. 6,150,947 and claims 1, 2, and 3 of U.S. Patent No. 5,825,427 (“the ’427 patent”). The complaint named numerous respondents, including Canon Inc. and Canon U.S.A., Inc. (collectively, “Canon”).

On June 13, 2011, Canon filed a motion for, *inter alia*, summary determination that claim 3 of the '427 patent is invalid under 35 U.S.C. § 102(b), asserting that the claim is anticipated by a Japanese patent publication, JPA Publication No. H04-322577 (“the '577 publication”). On June 22, 2011, several other respondents filed a Notice of Joinder supporting Canon’s motion. On June 23, 2011, the Commission investigative attorney filed a response that, *inter alia*, supported the anticipation of claim 3 by the '577 publication. Complainant Ogma filed an opposition to the motion on June 23, 2011.

On July 22, 2011, the ALJ issued an ID (Order No. 17) granting the motion in part. The ALJ found claim 3 of the '427 patent to be anticipated by the '577 publication and therefore invalid under 35 U.S.C. § 102(b). No petitions for review of the ID were filed.

The Commission has determined not to review the ID.

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)(3) of the Commission’s Rules of Practice and Procedure (19 C.F.R. § 210.42(h)(3)).

By order of the Commission.

/s/
William R. Bishop
Acting Secretary to the Commission

Issued: August 12, 2011