

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

In the Matter of

**CERTAIN DIGITAL TELEVISION
PRODUCTS AND CERTAIN PRODUCTS
CONTAINING SAME AND METHODS OF
USING SAME**

Investigation No. 337-TA-617

**NOTICE OF COMMISSION DETERMINATION TO MODIFY A LIMITED
EXCLUSION ORDER AND CEASE AND DESIST ORDERS**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to modify a limited exclusion order and cease-and-desist orders issued in the above-captioned investigation following the decision of the United States Court of Appeals for the Federal Circuit in *Vizio, Inc. v. U.S. International Trade Commission*, 605 F.3d 1330 (Fed. Cir. 2010).

FOR FURTHER INFORMATION CONTACT: 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 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. General information concerning the Commission may also be obtained by accessing its Internet server at <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>. 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: The Commission instituted this investigation on November 15, 2007, based on a complaint filed by Funai Electric Co., Ltd. of Japan and Funai Corporation of Rutherford, New Jersey (collectively "Funai") against several respondents including Vizio and AmTran. *72 Fed. Reg.* 64240 (2007). The complaint alleged violations of Section 337 of the Tariff Act of 1930, as amended, 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 digital television products and certain products containing same by reason of infringement of one or more claims of U.S. Patent Nos. 6,115,074 ("the '074 patent") and 5,329,369.

On April 10, 2009, the Commission terminated this investigation with a finding of violation of Section 337 by reason of infringement of claims 1, 5, and 23 of the '074 patent. 74 *Fed. Reg.* 17511 (2009). The Commission issued a limited exclusion order prohibiting importation into the United States of certain digital televisions and certain products containing the same within the scope of the investigation that are covered by one or more of claims 1, 5, and 23 of the '074 patent and that are manufactured abroad by or on behalf of, or imported by or on behalf of various respondents in the above referenced investigation, including Vizio, Inc. ("Vizio"); AmTran Technology Co., Ltd. ("AmTran"); Syntax-Brilliant Corporation ("SBC"); Taiwan Kolin Co., Ltd.; Proview International Holdings, Ltd.; Proview Technology (Shenzhen) Co., Ltd.; Proview Technology, Ltd.; TPV Technology, Ltd. ("TPV Technology"); TPV International (USA), Inc. ("TPV USA"); Top Victory Electronics (Taiwan) Co., Ltd. ("Top Victory Electronics"); and Envision Peripherals, Inc. ("Envision"). Cease-and-desist orders were issued against Vizio, TPV USA, Envision, and SBC.

Respondents Vizio, AmTran, TPV Technology, TPV USA, Top Victory Electronics, and Envision appealed to the United States Court of Appeals for the Federal Circuit ("Federal Circuit"). On May 26, 2010, the Federal Circuit issued a decision reversing certain Commission findings of infringement by so-called "work-around" products and ordering the Commission to take action consistent with its opinion. See *Vizio, Inc. v. Int'l Trade Comm'n*, 605 F.3d 1330 (Fed. Cir. 2010).

Shortly before the Federal Circuit issued its opinion, respondents Vizio and AmTran settled with complainant Funai and moved to rescind the limited exclusion order and cease-and-desist orders with respect to these respondents. On August 9, 2010, the Commission rescinded the limited exclusion order and the cease-and-desist orders with respect to Vizio and AmTran.¹

The Federal Circuit issued its mandate on October 28, 2010 *sub nom. TPV Technology v. U.S. International Trade Commission*. In accordance with the Federal Circuit's order, the Commission has determined to modify the limited exclusion order and the cease-and-desist orders directed to the activities of TPV USA and Envision.

¹ The Commission has not modified the cease-and-desist order directed to SBC because the findings of infringement by SBC were not appealed and therefore remain intact.

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 210.76(a)(1) of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.76(a)(1)).

By order of the Commission.

/s/

Marilyn R. Abbott
Secretary to the Commission

Issued: December 21, 2010