

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

In the Matter of

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

Inv. No. 337-TA-617
Enforcement Proceeding

NOTICE OF INSTITUTION OF FORMAL ENFORCEMENT PROCEEDING

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has instituted a formal enforcement proceeding relating to the limited exclusion order and cease and desist orders issued at the conclusion of the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Daniel E. Valencia, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, D.C. 20436, telephone (202) 205-1999. Copies of all 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 SW., 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) at <http://edis.usitc.gov/>. Hearing-impaired persons are advised that information on the 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, Inc. of Irvine, California ("Vizio"); AmTran Technology Co., Ltd. of Taiwan ("AmTran"); Syntax-Brilliant Corporation of Tempe, Arizona ("SBC"); Taiwan Kolin Co., Ltd. of Taiwan ("Taiwan Kolin"); Proview International Holdings, Ltd. of Hong Kong ("Proview International"); Proview Technology (Shenzhen) Co., Ltd. of China ("Proview Shenzhen"); Proview Technology, Ltd. of Garden Grove, California ("Proview Technology"); TPV Technology, Ltd. of Hong Kong ("TPV Technology"); TPV International (USA), Inc. of Austin, Texas ("TPV USA"); Top Victory Electronics (Taiwan) Co., Ltd. of Taiwan ("Top Victory Electronics"); and Envision Peripherals, Inc. of Fremont, California ("Envision"), among others. 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 televisions

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 claim 1, 5, and 23 of the ‘074 patent. 74 *Fed. Reg.* 17511 (2009). The Commission determined that the appropriate form of relief is (1) a limited exclusion order under 19 U.S.C. § 1337(d)(1) prohibiting the unlicensed entry of certain digital televisions and certain products containing the same that infringe one or more of claims 1, 5, and 23 of the ‘074 patent, and are manufactured abroad by or on behalf of, or imported by or on behalf of, Vizio, AmTran, TPV Technology, TPV USA, Top Victory Electronics, Envision, Taiwan Kolin, SBC, Proview International, Proview Shenzhen, Proview Technology; and (2) cease and desist orders directed to Vizio, TPV USA, SBC, Proview Technology, and Envision.

On August 14, 2009, Funai filed a complaint seeking enforcement proceedings under Commission Rule 210.75, 19 C.F.R. § 210.75. The complaint alleges that Vizio, AmTran, TPV Technology, TPV USA, Top Victory Electronics, Envision, Proview International, Proview Shenzhen, Proview Technology, Suzhou Raken Technology Ltd. of China (“Suzhou”), and Top Victory Investments, Ltd. of Hong Kong (“Top Victory Investments”) have violated the limited exclusion order and/or the cease and desist orders issued at the conclusion of the original investigation.

Funai’s enforcement complaint also requests that the Commission seek temporary emergency action under Commission rule 210.77, 19 C.F.R. § 210.77, to modify its remedial orders to make express that all respondents’ ATSC-compliant digital televisions are presumed to infringe the ‘074 patent. The Commission has denied this request for temporary emergency action because the Commission does not have the information necessary to determine whether respondents are currently violating the Commission’s limited exclusion and cease and desist orders.

Having examined the complaint seeking a formal enforcement proceeding, and having found that the complaint complies with the requirements for institution of a formal enforcement proceeding contained in Commission rule 210.75, 19 C.F.R. § 210.75 the Commission has determined to institute a formal enforcement proceeding to determine whether the respondents are in violation of the Commission’s limited exclusion order and cease and desist orders issued in the investigation, and what, if any, enforcement measures are appropriate. The following entities are named as parties to the formal enforcement proceeding: (1) complainant Funai, (2) respondents Vizio, AmTran, TPV Technology, TPV USA, Top Victory Electronics, Envision, Proview International, Proview Shenzhen, Proview Technology, Suzhou, and Top Victory Investments; and (3) a Commission investigative attorney to be designated by the Director, Office of Unfair Import Investigations.

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 210.75 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.75).

By order of the Commission.

/s/
Marilyn R. Abbott
Secretary to the Commission

Issued: September 4, 2009