

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

In the Matter of

**CERTAIN COLOR TELEVISION  
RECEIVERS AND COLOR DISPLAY  
MONITORS AND COMPONENTS  
THEREOF**

**Inv. No. 337-TA-534**

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL  
DETERMINATION GRANTING A MOTION FOR SUMMARY DETERMINATION OF  
NON-INFRINGEMENT OF ONE PATENT AT ISSUE; DETERMINATION TO GRANT  
A MOTION TO STRIKE AN ARGUMENT AND SUPPORTING EXHIBIT**

**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 initial determination (“ID”) of the presiding administrative law judge (“ALJ”) issued on October 17, 2005, granting a motion for summary determination of non-infringement of U.S. Patent No. 5,452,195 (“the ‘195 patent”) in the above-captioned section 337 investigation. The Commission has also determined to grant respondents’ motion to strike an argument and supporting exhibit from complainant's petition for review of the subject ID.

**FOR FURTHER INFORMATION CONTACT:** Timothy P. Monaghan, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-3152. Copies of the public version of the ID and 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, 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, which concerns allegations of unfair acts in violation of section 337 of the Tariff Act of 1930 in the importation and sale of certain color television receivers and color display monitors, and components thereof on March 29, 2005, based on a complaint filed by Thomson Licensing S.A. of Soulange, France, and Thomson Licensing Inc. of Princeton, New Jersey (“Thomson”). 70 *Fed. Reg.* 15883 (March 29, 2005). The respondents named in the notice of investigation are BenQ Corp. of Taoyuan 33 of Taiwan; BenQ Optronics (Suzhou) Co., Ltd. of China; BenQ America Corp. of Irvine, California; and AU Optronics Corp. of Hsinchu, Taiwan (collectively “respondents”). Thomson’s complaint alleged that respondents’ products infringed claims of five different patents held by Thomson.

On September 13, 2005, respondents moved for a summary determination that the accused products do not infringe the asserted claims of the ‘195 patent, or, in the alternative, that the ‘195 patent is invalid. Thomson filed a response opposing the motion. The Commission investigative attorney (“IA”) did not respond to the motion.

On October 17, 2005, the ALJ granted the motion as it pertains to non-infringement and issued the subject ID, Order No. 32. The ALJ did not consider the motion for summary determination as to invalidity because it was asserted in the alternative.

On October 24, 2005, Thomson filed a petition for review of the ID, and on October 31, 2005, respondents and the IA filed responses to Thomson’s petition for review. Respondents also filed a motion to strike an argument based on the doctrine of claim differentiation and its supporting exhibit from Thomson’s petition. Thomson filed an opposition to the motion to strike on November 10, 2005.

The Commission has determined not to review the ID. The Commission has also determined to grant respondents’ motion to strike. Complainants’ claim differentiation argument and supporting exhibit were not before the ALJ, and thus, under Commission precedent, may not be considered in determining whether to review the ALJ’s ID. *See Certain Polyethylene Terephthalate Yarn and Products Containing Same*, Inv. No. 337-TA-457, Commission Determination, 2002 WL 448657 at 1; *Certain Memory Devices with Increased Capacitance and Products Containing Same*, Inv. No. 337-TA-371, *affirmed sub nom.*, *Hazani v. United States Int’l Trade Comm’n*, 126 F.3d 1473 (Fed. Cir. 1997).

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: November 17, 2005