

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

CERTAIN VIDEO GAME MACHINES
AND RELATED THREE-DIMENSIONAL
POINTING DEVICES

Investigation No. 337-TA-658

Order No. 35: Initial Determination Terminating The Investigation As To Certain Claims

On April 14, 2009, complainant Hillcrest Laboratories, Inc. (Hillcrest) moved to terminate the investigation in part as to claims 1, 2, 3, 8, 18, 19, and 20 of U.S. Patent No. 7,139,983 asserted in the complaint and included in the Notice of Investigation, by withdrawing its allegations with respect to said claims. (Motion Docket No. 658-45.)¹

Commission rule 210.21(a)(1) provides that "[a]ny party may move at any time prior to the issuance of an initial determination on violation of section 337 of the Tariff Act of 1930 for an order to terminate an investigation in whole or in part as to any or all respondents, on the basis of withdrawal of the complaint or certain allegations contained therein, or for good cause other than the grounds listed in paragraph (a)(2) of this section. The presiding administrative law judge may grant the motion in an initial determination upon such terms and conditions as he deems proper."

Hillcrest, in support of Motion No. 658-45, argued that withdrawal of the allegations relating to the claims in issue will simplify the investigation, streamline the hearing, and conserve the Administrative Law Judge's consideration of the evidence to be presented at the hearing, citing e.g., Certain Rare-Earth Magnets and Magnetic Materials and Articles Containing

¹ Complainant represented in said motion that respondents and the staff each indicated that they would not oppose the pending motion.

the Same, Inv. No. 337-TA-413, Order No. 59 (August 24, 1999) (initial determination granting motion to withdraw allegations as to certain claims of asserted patents); Certain Integrated Circuit Chipsets and Products Containing Same, Inv. No. 337-TA-428, Order No. 14 (June 27, 2000); Certain Oscillating Sprinklers Components, and Nozzles, Inv. No. 337-TA-448, Order No. 6 (April 13, 2001); Certain Flooring Products, Inv. No. 337-TA-443, Order No. 30 (October 19, 2001).

The administrative law judge finds that Hillcrest has established good cause for Motion No. 658-45. Hence, said motion is granted.²

This initial determination, pursuant to Commission rule 210.42(c), is hereby CERTIFIED to the Commission. Pursuant to Commission rule 210.42(h)(3), this initial determination shall become the determination of the Commission within thirty (30) days after the date of service hereof unless the Commission grants a petition for review of this initial determination pursuant to Commission rule 210.43, or orders on its own motion a review of the initial determination or certain issues therein pursuant to Commission rule 210.44.

Paul J. Liickern
Chief Administrative Law Judge

Issued: April 16, 2009

² Hillcrest represented in its supporting memo that it maintains its allegations with respect to claims 11, 12, and 13 of U.S. Patent No. 7,139,983; claims 23, 24, 28, 30, 38-40, 45, 46, 50, 52, and 60-62 of U.S. Patent No. 7,262,760; and claims 20, 21, 25, 27, 34, 58, 59, 63, 65, 72, 77, 78, 82, 84, and 91 of U.S. Patent No. 7,414,611.

**CERTAIN VIDEO GAME MACHINES AND
RELATED THREE-DIMENSIONAL POINTING
DEVICES INTERMEDIATES, AND PRODUCTS
CONTAINING THE SAME**

Inv. No. 337-TA-658

PUBLIC CERTIFICATE OF SERVICE

I, Marilyn R. Abbott, hereby certify that the attached **Order** has been served by hand upon the Commission Investigative Attorney, Christopher G. Paulraj, Esq., and the following parties as indicated, on ^{A P R I L 1 6 T 2 0 0 9} •



Marilyn Rf Abbott, Secretary
U.S. International Trade Commission
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