



7020-02

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-921]

Certain Marine Sonar Imaging Devices, Including Downscan and Sidescan Devices, Products Containing the Same, and Components Thereof

Commission's Final Determination Finding a Violation of Section 337;

Issuance of a Limited Exclusion Order and a Cease and Desist Order;

Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has found a violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, in this investigation and has issued a limited exclusion order prohibiting respondents Garmin International, Inc. and Garmin USA, Inc., both of Olathe, Kansas, and Garmin (Asia) Corporation of New Taipei City, Taiwan (collectively, "Garmin"), from importing certain marine sonar imaging devices, including downscan and sidescan devices, products containing the same, and components thereof that infringe certain claims of U.S. Patent Nos. 8,305,840 ("the '840 patent") and 8,605,550 ("the '550 patent"). The Commission has also issued a cease and desist order against Garmin prohibiting the sale and distribution within the United States of articles that infringe certain claims of the '840 and '550 patents. The Commission has found no violation based on U.S. Patent No. 8,300,499 ("the '499 patent"). The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Lucy Grace D. Noyola, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3438. 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 (<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 July 14, 2014, based on a complaint filed by Navico, Inc. of Tulsa, Oklahoma, and Navico Holding AS, of Egersund, Norway (collectively, "Navico"). 79 *Fed. Reg.* 40778 (July 14, 2014). The complaint alleged violations of section 337 by reason of the importation into the United States, the sale for importation, and the sale within the United States after importation of certain marine sonar imaging devices, including downscan and sidescan devices, products containing the same, and components thereof. *Id.* The complaint alleged the infringement of certain claims of the '840, '499, and '550 patents. *Id.* The notice of investigation named Garmin and Garmin North America, Inc. as respondents. *Id.* The Office of Unfair Import Investigations ("OUII") was also named as a party. *Id.* The Commission later terminated the investigation as to Garmin North America, Inc. and various of the asserted claims. Notice (Dec. 31, 2014) (determining not to review Order No. 10 (Dec. 2, 2014)); Notice (Jan. 9, 2015) (determining not to review Order No.

11 (Dec. 11, 2014)); Notice (Jan. 13, 2015) (determining not to review Order No. 13 (Dec. 17, 2014)).

On March 3, 2015, the Commission determined on summary determination that Navico satisfied the economic prong of the domestic industry requirement for the '840 and '499 patents and the technical prong of the domestic industry requirement for the '840 and '550 patents.

Notice (Mar. 3, 2015) (determining not to review Order No. 14 (Jan. 29, 2015) and Order No. 15 (Jan. 30, 2015)).

On July 2, 2015, the ALJ issued a final initial determination ("ID") finding no violation of section 337 with respect to all three asserted patents. Specifically, the ALJ found that the asserted claims of each patent are not infringed and were not shown to be invalid for anticipation or obviousness. The ALJ found that the economic prong of the domestic industry requirement was not satisfied with respect to the '550 patent. The ALJ also issued a recommended determination on remedy and bonding ("RD"), recommending, if the Commission finds a section 337 violation, that a limited exclusion order and a cease and desist order should issue and that a bond should be imposed at a reasonable royalty of eight percent for each infringing device imported during the period of presidential review.

On July 20, 2015, Navico and OUII filed petitions for review challenging various findings in the final ID, and Garmin filed a contingent petition for review. On July 28, 2015, the parties filed responses to the various petitions. On August 5, 2015, Navico and Garmin filed post-RD statements on the public interest under Commission Rule 210.50(a)(4). The Commission did not receive any post-RD public interest comments from the public. *See 80 Fed. Reg. 39799* (July 10, 2015).

On September 3, 2015, the Commission determined to review the final ID in part and

requested additional briefing from the parties on certain issues. 80 *Fed. Reg.* 54592 (Sept. 10, 2015). Specifically, the Commission determined to review (1) the ALJ's construction of the limitation "single linear downscan transducer element" recited in claims 1 and 23 of the '840 patent (and its variants in the '499 and '550 patents); (2) the ALJ's construction of the limitation "combine" (and its variants) recited in claims 1, 24, and 43 of the '499 patent; (3) the ALJ's findings of noninfringement with respect to the three asserted patents; (4) the ALJ's findings of validity with respect to the three asserted patents; and (5) the ALJ's finding regarding the economic prong of the domestic industry requirement with respect to the '550 patent. *Id.* The Commission also solicited briefing from the parties and the public on the issues of remedy, bonding, and the public interest. *Id.*

On September 14, 2015, the parties filed initial written submissions addressing the Commission's questions and remedy, bonding, and the public interest. On September 21, 2015, the parties filed response briefs. No comments were received from the public.

Having examined the record of this investigation, including the final ID and the parties' submissions, the Commission has determined that Navico has proven a violation of section 337 based on infringement of claims 1, 5, 7, 9, 11, 16-19, 23, 32, 39-41, 63, and 70-72 of the '840 patent and infringement of claims 32 and 44 of the '550 patent. The Commission has determined to modify the ALJ's construction of certain terms in the asserted claims of the asserted patents, including "single linear downscan transducer element" recited in the '840 patent and its variants recited in the '550 and '499 patents. Under the modified constructions, the Commission has determined Navico has proven that (i) the accused Garmin echo products, echoMAP products, and GPSMAP products with their respective transducers infringe claims 1, 5, 7, 9, 11, 16-19, 23, 32, 39-41, and 70-72 of the '840 patent; (ii) the accused Garmin echoMAP products and

GPSMAP products with their respective transducers infringe claim 63 of the '840 patent; (iii) the accused Garmin GCV10 and GSD25 sonar modules with their respective transducers infringe claims 1, 5, 9, 11, 23, and 32 of the '840 patent; (iv) the accused Garmin GT30 transducer, which comes with the GCV10 sonar module, infringes claims 1, 7, 12, 13, and 57 of the '550 patent; and (v) the accused Garmin GT30 transducer, in conjunction with the GCV10 sonar module, infringes claims 32 and 44 of the '550 patent. The Commission has determined Garmin has not proven that the asserted claims of the '840 patent are invalid. The Commission has determined that Garmin has proven that claims 1, 7, 12, 13, and 57 of the '550 patent are invalid as obvious, but that Garmin has not proven that claims 32 and 44 of the '550 patent are invalid. The Commission has also determined that Navico has proven that a domestic industry exists in the United States for the '550 patent.

The Commission has determined that Navico has not proven a violation with respect to the '499 patent. The Commission has determined to adopt, on modified grounds, the ALJ's construction of the term "combining" (and its variants) recited in the asserted claims of the '499 patent. Under that construction, the Commission has determined that the asserted claims are not invalid and not infringed.

The Commission has determined the appropriate remedy is a limited exclusion order and a cease and desist order prohibiting Garmin from importing into the United States or selling or distributing within the United States certain marine sonar imaging devices, including downscan and sidescan devices, products containing the same, and components thereof that infringe the asserted claims of the '840 and '550 patents. The Commission has determined the public interest factors enumerated in section 337(d)(1) and (f)(1) do not preclude issuance of the limited exclusion order or cease and desist order.

Finally, the Commission has determined to apply a bond in the amount of 100 percent of the entered value of excluded products imported during the period of Presidential review (19 U.S.C. § 1337(j)). The Commission's order and opinion were delivered to the President and to the United States Trade Representative on the day of their issuance.

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 Part 210 of the Commission's Rules of Practice and Procedure (19 C.F.R. Part 210).

By order of the Commission.

Issued: December 1, 2015.

Lisa R. Barton,
Secretary to the Commission.

[FR Doc. 2015-30733 Filed: 12/4/2015 8:45 am; Publication Date: 12/7/2015]