

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

In the Matter of

CERTAIN REFRIGERATORS
AND COMPONENTS THEREOF

Investigation No. 337-TA-632

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ORDER: DENIAL OF RESPONDENTS' REQUEST FOR RECONSIDERATION

The Commission instituted this investigation on February 26, 2008, based on a complaint filed by Whirlpool Patents Company of St. Joseph, MI; Whirlpool Manufacturing Corporation of St. Joseph, MI; Whirlpool Corporation of Benton Harbor, MI; Maytag Corporation of Benton Harbor, MI (collectively "Whirlpool"). *73 Fed. Reg.* 10285 (February 26, 2008). The respondents named in the Notice of Investigation were LG Electronics, Inc. of South Korea; LG Electronics, USA, Inc. of Englewood Cliffs, NJ; and LG Electronics Monterrey of Mexico (collectively "LG"). *Id.*

The complaint, as supplemented, alleged violations of Section 337 in the importation into the United States, sale for importation, and sale within the United States after importation of certain refrigerators and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 6,810,680; 6,915,644; 6,971,730; 7,240,980; and 6,082,130 ("the '130 patent"). The complaint, as supplemented, further alleged that an industry in the United States exists as required by subsection (a)(2) of Section 337 and requested that the Commission issue an exclusion order and cease and desist orders.

On February 26, 2009, the ALJ issued his final ID, in which he found that no violation of Section 337 of the Tariff Act had occurred by reason of infringement of one or more of claims 1,

2, 4, 6, 8, and 9 of the '130 patent, the only patent remaining in the investigation. On April 27, 2009, the Commission determined to review the final ID in its entirety and asked the parties to address several questions. 74 *Fed. Reg.* 20345-6 (May 1, 2009).

On July 8, 2009, the Commission determined to modify certain claim constructions made in the final ID and to remand the investigation to the ALJ. The Commission also issued an Opinion detailing its reasoning for modifying the claim constructions. Commission Opinion (July 8, 2009).

On July 22, 2009, LG filed a petition for reconsideration of the Commission's decision to modify the ALJ's claim constructions of the phrases "freezer compartment" and "disposed within the freezer compartment." Whirlpool filed an opposition to the petition on July 29, 2009. The IA also filed a response on July 29, 2009, opposing the petition in part and supporting the petition in part.

Commission Rule 210.47 provides in pertinent part:

Within 14 days after service of a Commission determination, any party may file with the Commission a petition for reconsideration of such determination or any action ordered to be taken thereunder, setting forth the relief desired and the grounds in support thereof. Any petition filed under this section must be confined to new questions raised by the determination or action ordered to be taken thereunder and upon which the petitioner had no opportunity to submit arguments.

19 C.F.R. § 210.47.

LG's petition for reconsideration of the Commission's construction of the phrases "freezer compartment" and "disposed within the freezer compartment" neither raises new questions nor presents arguments that LG has not made in previous briefing before both the ALJ

and the Commission. As such, we find that LG's petition for reconsideration does not satisfy the requirements of Commission Rule 210.47.

Upon consideration of the record and the submissions this matter, the Commission hereby
ORDERS that:

1. Respondents' petition for reconsideration of the Commission's construction of the claim limitations "freezer compartment" and "disposed within the freezer compartment" is DENIED.
2. The Secretary will serve this Order on all parties to the investigation.

By order of the Commission.


A handwritten signature in black ink, appearing to read "Marilyn R. Abbott". The signature is fluid and cursive, with a large loop at the end.

Marilyn R. Abbott
Secretary to the Commission

Issued: August 28, 2009

PUBLIC CERTIFICATE OF SERVICE

I, Marilyn R. Abbott, hereby certify that the attached **ORDER: DENIAL OF RESPONDENTS' REQUEST FOR RECONSIDERATION** has been served by hand upon the Commission Investigative Attorney, Lisa Murray, Esq., and the following parties as indicated, on August 31, 2009.


Marilyn R. Abbott, Secretary *JNe*
U.S. International Trade Commission
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**ON BEHALF OF COMPLAINANTS WHIRLPOOL
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