

PUBLIC VERSION

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

CERTAIN VIDEO DISPLAYS, COMPONENTS
THEREOF, AND PRODUCTS CONTAINING
THE SAME

Inv. No. 337-TA-687

ORDER NO. 14: INITIAL DETERMINATION GRANTING JOINT MOTION TO TERMINATE RESPONDENTS FUNAI ELECTRIC COMPANY, LTD., FUNAI CORPORATION, INC., AND P&F USA, INC. FROM THE INVESTIGATION ON THE BASIS OF A SETTLEMENT AGREEMENT; AND

ORDER DENYING AS MOOT THE MOTION TO SUSPEND THE PROCEDURAL SCHEDULE WITH RESPECT TO RESPONDENTS FUNAI ELECTRIC COMPANY, LTD., FUNAI CORPORATION, INC., AND P&F USA, INC.

(February 18, 2010)

On January 27, 2010, Complainant LG Electronics (“LG”) and Respondents Funai Electric Company, Ltd., Funai Corporation, Inc. and P&F USA, Inc. (collectively, “Funai”) filed public and confidential motions to terminate the Investigation with respect to Funai on the basis of a settlement agreement. (Motion Docket No. 687-017.) LG and Funai argue that it is in the interest of the public and administrative economy to terminate Funai from the Investigation. (Mot. at 1.) The motion further states that the Commission Investigative Staff (“Staff”) and Respondent Vizio, Inc. do not oppose.¹ (*Id.* at 2.) On January 27, 2010, LG and Funai further moved for suspension

¹ On January 28, 2010, Staff contacted the parties and Attorney Advisor for the Administrative Law Judge to correct a miscommunication with respect to Staff’s position, and to indicate that Staff would be filing a response to the motion.

PUBLIC VERSION

of the procedural schedule with respect to Funai pending the outcome of the joint motion to terminate Funai. (Motion Docket No. 687-018.)

On February 12, 2010, Staff filed a response supporting the motion. Staff argues that the motion to terminate complies with Commission requirements. (Staff Resp. at 2.) Staff further argues that “[t]here is nothing to suggest that the Settlement Agreement would impose an undue burden on the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, or U.S. consumers.” (*Id.* at 4.)

The Commission’s Rules permit termination of the Investigation with respect to any or all respondents on the basis of a settlement. 19 C.F.R. § 210.21(b)(1). The settlement appears to resolve the disputes between LG and Funai both before the International Trade Commission and the Eastern District Court of Texas. In satisfaction of 19 C.F.R. § 210.21(b)(1), LG and Funai have provided both public and confidential versions of their Settlement and Patent License Agreement, and have made a statement that there are no other agreements, written or oral, express or implied between LG and Funai concerning the subject matter of this Investigation. (*Id.*)

In the case of a proposed termination by settlement agreement,

the parties may file statements regarding the impact of the proposed termination on the public interest, and the administrative law judge may hear argument, although no discovery may be compelled with respect to issues relating solely to the public interest. Thereafter, the administrative law judge shall consider and make appropriate findings in the initial determination regarding the effect of the proposed settlement on the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers.


PUBLIC VERSION

19 C.F.R. § 210.50(b)(2). LG and Funai, although they provide no detail, argue that it is in the interest of the public to grant the motion. (Mot. Mem. at 1.) The Staff believes that granting the joint motion would not be contrary to the public interest. (Staff Resp. at 4.) Termination of litigation under these circumstances as an alternative method of dispute resolution is generally in the public interest.

For good cause shown, it is the Administrative Law Judge's Initial Determination that Motion No. 687-017 be GRANTED and that the Investigation be terminated with respect to Respondents Funai Electric Company, Ltd., Funai Corporation, Inc. and P&F USA, Inc. The motion to suspend the procedural schedule (Motion Docket No. 687-018) with respect to Funai is DENIED as moot.

This Initial Determination, along with a public copy of the Settlement Agreement,² is hereby certified to the Commission. Pursuant to 19 C.F.R. § 210.42(h), this Initial Determination shall become the determination of the Commission unless a party files a petition for review of the Initial Determination pursuant to 19 C.F.R. § 210.43(a), or the Commission, pursuant to 19 C.F.R. § 210.44, orders on its own motion a review of the Initial Determination or certain issues herein.

SO ORDERED.


E. James Gildea
Administrative Law Judge

² The Commission's Rules require both confidential and public versions of settlement agreements. See 19 C.F.R. § 210.21(b)(1). A copy of the confidential version or public version of the Settlement and Patent License Agreement between LG and Funai is attached to the respective confidential and public versions of this Initial Determination.

EXHIBIT A

SETTLEMENT AND PATENT LICENSE AGREEMENT

This SETTLEMENT AND PATENT LICENSE AGREEMENT ("Agreement") is entered into this 31st day of December, 2009, by and between LG Electronics, Inc., a Korean corporation having its principal office and place of business at LG Twin Towers, 20 Yeouido-dong, Yeongdeungpo-gu, Seoul 150-721, Korea (hereinafter referred to as "LGE") and FUNAI ELECTRIC CO., LTD., a Japanese corporation having its principal office and place of business at 7-1, 7-chome, Nakagaito, Daito City, Osaka, 574-0013, Japan (hereinafter referred to as "FUNAI"). Hereinafter, individually referred to as a "Party" and collectively as the "Parties".

RECITALS

WHEREAS, LGE owns certain patents relating to Digital Television and Digital Set Top Box technologies;

WHEREAS, FUNAI owns certain patents relating to Digital Television and Digital Set Top Box technologies;

WHEREAS, The Parties are currently engaged in litigation in the Eastern District of Texas in the case of *LG Electronics, Inc. v. Funai Electric co., Ltd. et al.*, Civil Action No. 5:09-CV-114, and they are also engaged in an action under Section 337 of the Tariff Act of 1930, in the matter of Certain Video Displays, Components Thereof, and Products Containing Same, at International Trade Commission in the case of *LG Electronic Inc. v. Funai Electric Co., Ltd.*, Investigation No.337-TA-687. ("Disputes")

WHEREAS, FUNAI desires to settle the Disputes and acquire a license and a release with respect to Digital Television and Digital Set Top Box made by FUNAI;

WHEREAS, LGE is willing to grant a license and a release for Digital Television and Digital Set Top Box made by FUNAI;

WHEREAS, LGE desires to settle the Dispute and acquire a license and a release with respect to Digital Television and Digital Set Top Box made by LGE;

WHEREAS, FUNAI is willing to grant a license and a release for Digital Television and Digital Set Top Box made by LGE;

WHEREAS, the Parties wish to finally terminate, resolve and have dismissed all Disputes between the Parties and Affiliates;

NOW, THEREFORE, in consideration of the mutual premises and the following mutual covenants and promises, the Parties agree as follows:

REDACTED

See

ss



REDACTED

See

SR

REDACTED

be

ss.

REDACTED

See

ss.

REDACTED

See

ss

REDACTED

See

SR.

REDACTED

See

See

REDACTED

See

ff

ARTICLE 6 — CONFIDENTIALITY

- 6.1 Other than revealing the existence of this Agreement, either Party shall not divulge terms and conditions of this Agreement to any third party except as required by law or upon the prior written consent of the other Party.

REDACTED

be

ss.

REDACTED

See

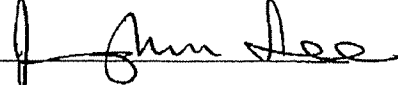
ss

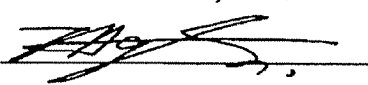
REDACTED

In WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their respective duly authorized representatives as of the latter of the dates indicated with the signature executions below.

LG ELECTRONICS INC.

FUNAI ELECTRIC CO., LTD.

By: 

By: 

Print Name: JEONG HWAN LEE

Print Name: Tomonori Hayashi

Title: E.V.P

Title: President and CEO

Date Signed: Dec. 31st, 2009

Date Signed: December 31, 2009



APPENDIX

DRAFT MOTIONS TO DISMISS FOR EDTX AND ITC

See

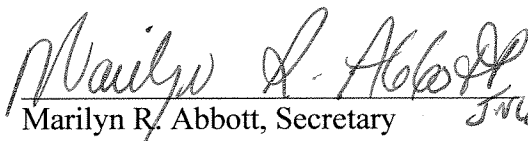
ff.

**IN THE MATTER OF CERTAIN VIDEO
DISPLAYS, COMPONENTS THEREOF,
AND PRODUCTS CONTAINING SAME**

337-TA-687

PUBLIC CERTIFICATE OF SERVICE

I, Marilyn R. Abbott, hereby certify that the attached **INITIAL DETERMINATION** has been served by hand upon, the Commission Investigative Attorney, **Jeffrey T. Hsu, Esq.**, and the following parties as indicated on February 18, **2010**.


Marilyn R. Abbott, Secretary
U.S. International Trade Commission
500 E Street, SW, Room 112A
Washington, D.C. 20436

FOR COMPLAINANTS LG ELECTRONICS, INC. AND LG TWIN TOWERS

Michael J. McKeon, Esq.
FISH & RICHARDSON, P.C.
1425 K Street NW, 11th Floor
Washington, DC 20005
P: 202-783-5070

() Via Hand Delivery
() Via Overnight Mail
() Via First Class Mail
() Other: _____

**FOR RESPONDENTS FUNAI ELECTRIC COMPANY, LTD., FUNAI CORPORATION
INC., P&F USA, INC.:**

Richard de Bodo, Esq.
HOGAN & HARTSON, LLP
1999 Avenue of the Stars
Los Angeles, CA 90067
P: 310-785-4600

() Via Hand Delivery
() Via Overnight Mail
() Via First Class Mail
() Other: _____

**FOR RESPONDENTS VIZIO, INC., AMTRAN TECHNOLOGY CO., LTD AND
AMTRAN LOGISTICS, INC.:**

Blaney Harper, Esq.
JONES DAY
51 Louisiana Avenue NW
Washington, DC 20001
P: 202-879-3939

() Via Hand Delivery
() Via Overnight Mail
() Via First Class Mail
() Other: _____

**IN THE MATTER OF CERTAIN VIDEO
DISPLAYS, COMPONENTS THEREOF,
AND PRODUCTS CONTAINING SAME**

337-TA-687

PUBLIC MAILING LIST

Heather Hall
LEXIS - NEXIS
9443 Springboro Pike
Miamisburg, OH 45342

Via Hand Delivery
 Via Overnight Mail
 Via First Class Mail
 Other: _____

Kenneth Clair
THOMSON WEST
1100 Thirteen Street, NW, Suite 200
Washington, D.C. 20005

Via Hand Delivery
 Via Overnight Mail
 Via First Class Mail
 Other: _____