

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. 25: DENYING COMPLAINANT LG ELECTRONICS INC.'S MOTION *IN LIMINE*

(June 8, 2010)

On May 19, 2010, Complainant LG Electronics, Inc. (“LG”) filed a motion *in limine* to preclude Respondents Vizio, Inc., AmTran Technology Co., Ltd. and AmTran Logistics, Inc. from (i) offering evidence relating to RCA Set Top Box Model Number DTC-100 (the “DTC-100”) at the hearing, and (ii) from comparing LG’s infringement contentions or any asserted claim of the ‘096 patent to the VESA “TV Panels Standard” at the hearing. (Motion Docket No. 687-026.) LG argues that the DTC-100 and its associated materials are not prior art to the ‘564 patent and therefore should not be admitted into evidence. (Mot. Mem. at 2.) With respect to the VESA standard, LG further argues that Respondents AmTran Technology Co., Ltd. and AmTran Logistics, Inc. (collectively, “AmTran”) have failed to adduce sufficient evidence and expert analysis to support a defense of breach of the contractual duty of good faith in connection with LG’s membership in the Video Electronics Standards Association (“VESA”) (the “VESA defense”). (*Id.* at 5-6.)

On May 27, 2010, Respondents opposed LG’s motion. Respondents argue that LG’s

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motion is “a motion for summary determination disguised as a motion *in limine*.” (Opp. at 1.) According to Respondents, whether the DTC-100 is prior art under the various subsections of Section 102 is disputed and thus the issue should not be determined prior to an evidentiary hearing. (*Id.* at 2-3.) Respondents further counter LG’s argument with respect to the VESA defense by pointing out that expert Dr. Min “opined extensively” on the VESA standard and its relation to LG’s infringement contentions. (*Id.* at 4.) Respondents further note that Dr. Min properly did not attempt to opine on the legal aspects of the VESA defense. (*Id.* at 7.)

On May 27, 2010, the Commission Investigative Staff (“Staff”) also opposed LG’s motion. Staff argues that the issue of whether the DTC-100 is prior art “concerns the weight, not the admissibility, of the evidence.” (Staff Resp. at 2.) Staff is of the opinion that Respondents should have an opportunity to present their evidence on the DTC-100. (*Id.* at 3.) With respect to the VESA defense, Staff argues that LG has erred with respect to Dr. Min’s expert reports. (*Id.*) According to Staff, Dr. Min “thoroughly and expressly analyzed the VESA TV Panels Standard in relation to the claims of the ‘096 patent.” (*Id.* at 3-4.)

After reviewing the motion papers and responses thereto, the Administrative Law Judge finds that LG’s motion *in limine* (Motion Docket No. 687-026) should be DENIED in full. The issue of whether the DTC-100 is prior art to the ‘564 patent is not as clear cut as LG argues, and thus all parties should have an opportunity to present evidence on this issue at the hearing. The Administrative Law Judge further finds that LG has not demonstrated that AmTran’s expert, Dr. Min, failed to discuss the VESA defense in his expert reports.

Within seven days of the date of this document, each party shall submit to the Office of the Administrative Law Judges a statement as to whether or not it seeks to have any portion of this

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document deleted from the public version. The parties' submissions may be made by facsimile and/or hard copy by the aforementioned date.

Any party seeking to have any portion of this document deleted from the public version thereof must submit to this office a copy of this document with red brackets indicating any portion asserted to contain confidential business information. The parties' submissions concerning the public version of this document need not be filed with the Commission Secretary

SO ORDERED.

A handwritten signature in cursive script that reads "E. James Gildea". The signature is written in black ink and is positioned above a horizontal line.

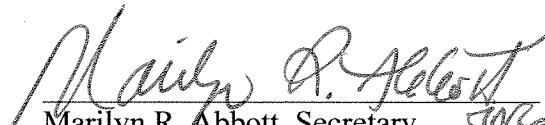
E. James Gildea
Administrative Law Judge

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337-TA-687

PUBLIC CERTIFICATE OF SERVICE

I, Marilyn R. Abbott, hereby certify that the attached **ORDER** has been served by hand upon, the Commission Investigative Attorney, **Jeffrey T. Hsu, Esq.**, and the following parties as indicated on **JUN 21 2010**


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