

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

CERTAIN ROBOTIC VACUUM CLEANING  
DEVICES AND COMPONENTS THEREOF SUCH  
AS SPARE PARTS

Inv. No. 337-TA-1057

**ORDER NO. 34: INITIAL DETERMINATION GRANTING MOTIONS TO  
TERMINATE THE INVESTIGATION AS TO RESPONDENTS  
BISSELL HOMECARE, INC. AND MATSUTEK ENTERPRISES CO.,  
LTD**

(January 25, 2018)

**I. INTRODUCTION**

On January 16, 2018, complainant iRobot Corp. (“iRobot”) moved to terminate the investigation with respect to all accused products from respondent Bissell Homecare, Inc. (“Bissell”) under 19 C.F.R. § 210.21(a). (Motion Docket No. 1057-038.) As noted in that motion, and also on January 16, 2018, iRobot moved to terminate the investigation with respect to all accused products from respondent Matsutec Enterprises Co., Ltd. (“Matsutec”) under 19 C.F.R. § 210.21(b). (Motion Docket No. 1057-037.) iRobot explains the terminations are due to iRobot’s entering into a settlement agreement with Matsutec (hereafter “the Agreement”), a supplier of Bissell. (See Bissell Mot. at 1; Matsutec Mot. at 1.) iRobot states “[t]here are no agreements, written or oral, express or implied, between iRobot and Bissell concerning the subject matter of the Investigation” (Bissell Mot. at 1) and, apart from the Agreement, “[t]here are no other agreements, written or oral, express or implied, between iRobot and Matsutec or Bissell concerning the subject matter of the Investigation (Matsutec Mot. at 1).

Each of iRobot’s motions included, and referenced as Exhibit 1, a confidential version of

the Agreement. Each motion also represents that “[t]he remaining Respondents do not oppose this motion.” (Bissell Mot. at 1; Matsutek Mot. at 1.) Also on January 16, 2018, iRobot filed public versions of each motion which each attached a public version of the Agreement.

## **II. STANDARDS OF LAW**

Under Commission Rule 210.21(a)(1),

Any 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 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. A motion for termination of an investigation based on withdrawal of the complaint, or for good cause, shall contain a statement that there are no agreements, written or oral, express or implied between the parties concerning the subject matter of the investigation, or if there are any agreements concerning the subject matter of the investigation, all such agreements shall be identified, and if written, a copy shall be filed with the Commission along with the motion.

19 C.F.R. § 210.21(a)(1).

Commission Rule 210.21(b)(1) further specifies that the motion to terminate must include:

(1) copies of the licensing or other settlement agreement; (2) any supplemental agreements; and (3) a statement that there are no other agreements, written or oral, express or implied, between the parties concerning the subject matter of the investigation. *See* 19 C.F.R. § 210.21(b)(1). In addition, the Rule requires that the motion must include a public version of any licensing or other settlement agreement containing confidential business information. *See id.* Commission Rule 210.21(a)(1) also provides that, “[o]n motion for good cause shown, the administrative law judge may limit the service of the agreements to the settling parties and the Commission investigative attorney.” *See id.*

Pursuant to Commission Rule 210.50(b)(2), I must also consider and make appropriate findings regarding the effect of the proposed settlement on the public interest. *See* 19 C.F.R. § 210.50(b)(2).

**III. DISCUSSION**

iRobot filed confidential and public versions of each motion to terminate which, together, included confidential and public versions of the Agreement (Exhibits A and A1, respectively, attached hereto). iRobot also represented that “[t]here are no agreements, written or oral, express or implied, between iRobot and Bissell concerning the subject matter of the Investigation” (Bissell Mot. at 1) and, apart from the Agreement, “[t]here are no other agreements, written or oral, express or implied, between iRobot and Matsutek or Bissell concerning the subject matter of the Investigation (Matsutek Mot. at 1). Accordingly, I find that the requirements of Commission Rules 210.21(a)(1) and 210.21(b)(1) have been met.

With regard to the public interest, I have reviewed the pleadings filed in connection with iRobot’s motion to terminate and do not find any information indicating that termination of this investigation on the basis of the Agreement is contrary to 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. To the contrary, I find that termination of this investigation is in the public interest and will conserve public and private resources. *See, e.g., Certain Consumer Elecs., Including Mobile Phones and Tablets*, Inv. No. 337-TA-839, Order No. 35, 2013 WL 453756, \*2 (Feb. 4, 2013) (“[T]ermination of litigation under these circumstances as an alternative method of dispute resolution is generally in the public interest and will conserve public and private resources.”).

**IV. CONCLUSION**

For the reasons above, it is my Initial Determination to GRANT both the Unopposed Motion to Terminate Bissell Pursuant to Commission Rule 210.21(a) (Motion Docket No. 1057-038) and the Unopposed Motion to Terminate Matsutek Pursuant to Commission Rule 210.21(b) (Motion Docket No. 1057-037).

This Initial Determination, along with any supporting documentation, 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.**



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Thomas B. Pender  
Administrative Law Judge

# **EXHIBIT A**

**(omitted from Public Version)**

# **EXHIBIT A1**

**MUTUAL COVENANT, LICENSE, AND RELEASE AGREEMENT**

This Mutual Covenant, License, and Release Agreement (“Agreement”) is entered into between iRobot Corporation, organized and existing under the laws of Delaware, with its principal place of business at 8 Crosby Drive, Bedford, Massachusetts 01730 (“iRobot”), on the one side, and Matsutek Enterprises Co., Ltd., a Taiwanese corporation, with its principal place of business at 2F, 2, Lane 15 Tzu Chiang Street, New Taipei City, Taiwan 23678, on the other side (“Matsutek”), as of the Effective Date, as defined below. As used herein, “Party” refers to either iRobot or Matsutek and “Parties” refers to iRobot and Matsutek collectively.

WHEREAS, iRobot brought suit against a number of parties, including Matsutek and Matsutek’s customer, Bissell Homecare, Inc. (“Bissell”), in *Certain Robotic Vacuum Cleaning Devices and Components Thereof Such as Spare Parts*, Inv. No. 337-TA-1057 (Int’l Trade Comm’n), filed April 18, 2017 (the “ITC Action”) and *iRobot Corp. v. Bissell Homecare, Inc.*, Case No. 1:17-cv-10647 (D. Mass.) (the “iRobot District Court Action”), and Matsutek brought certain actions against iRobot in *Matsutek Enterprises Co., Ltd. v. iRobot Corporation*, Case No. 17-cv-12483 (D. Mass.) (the “Matsutek District Court Action”) as well as actions against iRobot and its suppliers in China, involving Chinese Patent Nos. ZL200910265511.5, ZL200910173500.4, and CN101081153B (the “Chinese Actions”) (all actions collectively referred to as the “Litigations”).

WHEREAS, the Parties have agreed it would be mutually beneficial to resolve all of their litigation with each other and to grant rights to the other party under certain patents and patent applications.

NOW, THEREFORE, in consideration of the above premises and the covenants, representations, and warranties contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

**1. DEFINITIONS**

1.1 “Affiliate(s)” shall mean any other Person directly or indirectly controlling a Party, controlled by a Party or under common control with a Party, currently or in the future. For purposes of this definition, “control” in this Section 1.1 means direct or indirect (e.g., through any number of successive tiers) ownership of: (a) more than fifty percent (50%) of the outstanding shares having the right to vote for the election of directors or other managing authority of the subject entity; or (b) in the case of an Person that does not have outstanding shares (e.g., a partnership, joint venture or unincorporated association), more than fifty percent (50%) of the ownership interests having the right to make decisions for the subject entity.

1.2 “Business Day” shall mean any day other than a Saturday, a Sunday or a day on which banks in New York, U.S.A., are authorized or obligated by law or executive order to close.

1.3 “iRobot Licensed Patents” shall mean (i) all U.S. patents and patent applications (along with patents issuing thereon) that are, as of the Effective Date of this Agreement, assigned to,

owned by, or controlled by iRobot, or for which iRobot has a right to assert a claim of infringement or to grant licenses, including without limitation the patents asserted in the ITC Action and/or iRobot District Court Action; and (ii) any U.S. patents and patent applications, including divisionals, continuations, continuations-in-part, reissues, reexaminations, utility models, parent or extension of any patent or application already in existence or that come into existence in the future, claiming direct or indirect priority from or to, sharing a common priority claim with, being in a related technical field to, or in any other way relying on the patents and patent applications of Section 1.3(i). For the avoidance of doubt, "iRobot Licensed Patents" includes U.S. patents over which iRobot has or obtains control or ownership or title sufficient to grant a covenant not to sue as of or after the Effective Date.

1.4 "Matsutec Licensed Patents" shall mean (i) all U.S. patents and patent applications (along with patents issuing thereon) that are, as of the Effective Date of this Agreement, assigned to, owned by, or controlled by Matsutec, or for which Matsutec has a right to assert a claim of infringement or to grant licenses, including without limitation the patents asserted in the Matsutec District Court Action and Chinese Actions; and (ii) any U.S. patents and patent applications, including divisionals, continuations, continuations-in-part, reissues, reexaminations, utility models, parent or extension of any patent or application already in existence or that come into existence in the future, claiming direct or indirect priority from or to, sharing a common priority claim with, being in a related technical field to, or in any other way relying on the patents and patent applications of Section 1.4(i). For the avoidance of doubt, "Matsutec Licensed Patents" includes U.S. patents over which Matsutec has or obtains control or ownership or title sufficient to grant a covenant not to sue as of or after the Effective Date.

1.5 "Effective Date" shall mean the date upon which all parties have executed the Agreement, or December 31, 2017, whichever is earlier.

1.6 "Matsutec Customers" shall mean U.S. customers that have purchased or distributed a Matsutec Product, as defined herein, including without limitation, distributors, retailers, resellers, and end users, subject to the time limitations defined herein. The foregoing definition explicitly includes Bissell Homecare, Inc.

1.7 "Matsutec Products" shall mean robotic vacuum devices developed, manufactured by and/or manufactured for Matsutec for Matsutec Customers, including, but not limited to the M650 robotic vacuum device.

1.8 "iRobot Customers" shall mean U.S. customers that have purchased or distributed an iRobot Product, as defined herein, including without limitation, distributors, retailers, resellers, and end users, subject to the time limitations defined herein.

1.9 "iRobot Products" shall mean all robotic vacuum devices developed, manufactured by and/or manufactured for iRobot, including but not limited to the Roomba 500, 600, 700, 800, and 900 series robotic vacuum devices.



1.10 "Person" as used herein shall mean an individual, trust, corporation, partnership, joint venture, limited liability company, association, unincorporated organization or other legal or governmental entity.

1.11 "Third Party" shall mean any Person other than the Parties to the Agreement or an Affiliate of a Party to this Agreement.

**2. MUTUAL LICENSES, COVENANTS, AND RELEASES**

2.1 **License by iRobot.** Subject to the terms and conditions of this Agreement [REDACTED] (and unless this Agreement is terminated as permitted in Section 6.1(a)), iRobot, on behalf of itself and its Affiliates, successors, and assigns, hereby [REDACTED], to make, have made, use, sell, offer to sell, import, and otherwise dispose of the Matsutek Products. Following [REDACTED], the subject license rights expire.

2.2 **License by Matsutek.** Subject to the terms and conditions of this Agreement (and unless this Agreement is terminated as permitted in Section 6.1(a)), Matsutek, on behalf of itself and its Affiliates, successors, and assigns, hereby [REDACTED], to make, have made, use, sell, offer to sell, import, and otherwise dispose of the iRobot Products. Following [REDACTED], the subject license rights expire.

2.3 **Covenant by iRobot.** [REDACTED] unless this Agreement is terminated as permitted in Section 6.1(a), iRobot, on behalf of itself and its Affiliates, successors, and assigns, hereby covenants (i) [REDACTED] vendors, suppliers, distributors, and manufacturers (in the broadest sense), their Affiliates, successors, and assigns on any Matsutek Product for alleged infringement of [REDACTED] for the activities expressly permitted under Section 2.1 (such covenant shall be limited to the U.S., and shall extend to any entity to which this Agreement is assigned, and to all distributors, customers, and end users of Matsutek Products, but only to the extent that such parties make, use, sell, import, or distribute any Matsutek Product); (ii) [REDACTED], vendors, suppliers, distributors, and manufacturers (in their broadest sense), their Affiliates, successors, and assigns for patent infringement based on any patent license from a Third Party and relating to any Matsutek Product licensed in Section 2.1; and (iii) not to challenge, participate in any challenge to, or aid any Third Party in challenging the validity or enforceability of the Matsutek Licensed Patents.

2.4 **Covenant by Matsutek.** Unless this Agreement is terminated as permitted in Section 6.1(a), Matsutek, on behalf of itself and its Affiliates, successors, and assigns, hereby covenants (i) [REDACTED] vendors, suppliers, distributors, and manufacturers (in their broadest sense), their Affiliates, successors, and assigns for the alleged infringement of [REDACTED] on any iRobot Product for the activities expressly permitted under Section 2.2 (such covenant shall be limited to the U.S., and extend to any entity to which this



Agreement is assigned, and to all manufacturers, distributors, customers, and end users of iRobot Products, but only to the extent that such parties make, use, sell, import, or distribute any iRobot Product); (ii) [REDACTED] vendors, suppliers, distributors, and manufacturers (in their broadest sense), their Affiliates, successors, and assigns for patent infringement based on any patent license from a Third Party and related to any iRobot Product licensed in Section 2.2; and (iii) not to challenge, participate in any challenge to, or aid any Third Party in challenging the validity or enforceability of the iRobot Licensed Patents.

**2.5 Release by iRobot.** In consideration for this Agreement, subject to the Representations and Warranties herein, iRobot hereby fully, finally, and forever releases, discharges, and acquits Matsutec and Matsutec Customers from any and all known claims arising out of, based upon, attributable to, or in connection with the ITC Action and iRobot District Court Action in relation to the Matsutec Products, and further hereby fully, finally, and forever releases, discharges, and acquits Matsutec, its Affiliates, vendors, suppliers, and manufacturers, and Matsutec Customers, from any and all known claims arising out of, based upon, attributable to, or in connection with the ITC Action and iRobot District Court Action in relation to the Matsutec Products. This release includes: (i) any and all known claims for damages, costs, and/or attorney fees arising out of, as a result of, or related to the allegations in the ITC Action and iRobot District Court Action in relation to Matsutec Products; and (ii) any and all known claims for damages, costs, and/or attorney fees arising out of, as a result of, or related to the allegations in the Matsutec District Court Action and Chinese Actions in relation to the iRobot Products.

**2.6 Release by Matsutec.** In consideration for this Agreement, subject to the Representations and Warranties herein, Matsutec hereby fully, finally, and forever releases, discharges, and acquits iRobot and its Affiliates, from any and all known claims arising out of, based upon, attributable to, or in connection with the ITC Action and iRobot District Court Action in relation to defending against any claims regarding Matsutec Products, and further hereby fully, finally, and forever releases, discharges, and acquits iRobot, its Affiliates, vendors, suppliers, and manufacturers, and iRobot Customers (including, for the purpose of the Chinese Actions, Chinese customers), from any and all known claims arising out of, based upon, attributable to, or in connection with the Matsutec District Court Action and Chinese Actions in relation to the iRobot Products. This release includes: (i) any and all known claims for damages, costs, and/or attorney fees arising out of, as a result of, or related to the allegations in the ITC Action and iRobot District Court Action in relation to Matsutec Products; and (ii) any and all known claims for damages, costs, and/or attorney fees arising out of, as a result of, or related to the allegations in the Matsutec District Court Action and Chinese Actions in relation to the iRobot Products.

**2.7 General Release.** The Parties, having specific intent to release all potential claims described in the foregoing sections 2.5 and 2.6, whether known or unknown, do hereby acknowledge and expressly waive any rights they may have under the provisions of California Civil Code Section 1542 (or any similar law in another jurisdiction) which provides: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

2.8 [REDACTED] Unless this Agreement is terminated as permitted in Section 6.1(a), [REDACTED] following the Effective Date of this Agreement, each Party, on behalf of itself and its Affiliates, successors, and assigns, hereby covenants (i) [REDACTED] customers, vendors, suppliers, distributors, and manufacturers (in their broadest sense), their Affiliates, successors, and assigns for the alleged infringement of [REDACTED], or for which such Party has a [REDACTED], obtained prior to or during such Stand-down Period, on any iRobot or Matsutek Product for the activities expressly permitted under Sections 2.1 or 2.2, as applicable; (ii) [REDACTED], vendors, suppliers, distributors, and manufacturers (in their broadest sense), their Affiliates, successors, and assigns for patent infringement based on any patent license from a Third Party and related to any iRobot or Matsutek Product for the activities expressly permitted under Sections 2.1 or 2.2, as applicable; and (iii) not to challenge, participate in any challenge to, or aid any Third Party in challenging the validity or enforceability of the any patent subject to this Section 2.8.

During this [REDACTED], the Parties agree to [REDACTED].

2.9 **Term.** Subject to Section 6.1(a), the term of the licenses and covenants granted herein shall be until [REDACTED].

**3. CONSIDERATION**

3.1 [REDACTED]

[REDACTED]

[REDACTED]

**3.2 Mutual Dismissals.**

(a) iRobot shall dismiss all existing claims in the ITC Action and iRobot District Court Action as to Matsutek and Bissell upon execution of this Agreement by filing motions for dismissal substantially in the forms attached hereto as Exhibits A-C, or in such

[REDACTED]

other form as required for approval by each court to effectuate the dismissals. iRobot further agrees to dismiss all existing invalidity proceedings in the Chinese Actions by filing withdrawal and/or dismissal motions as required by the Chinese Patent Office to effectuate the dismissals. Matsutec makes no admission of infringement, validity, or liability by the negotiation, execution, or performance of this Agreement.

- (b) Matsutec shall dismiss all existing claims in the Matsutec District Court Action upon execution of this Agreement by filing motions for dismissal substantially in the forms attached hereto as Exhibit C, or in such other form as required for approval by each court to effectuate the dismissals. Matsutec further agrees to dismiss all existing claims in the Chinese Actions by filing withdrawal and/or dismissal motions as required by each court to effectuate the dismissals. iRobot makes no admission of infringement, validity, or liability by the negotiation, execution, or performance of this Agreement.

#### **4. REPRESENTATIONS AND WARRANTIES**

4.1 **Mutual Representations.** Each Party hereby represents, warrants, and covenants that:

- a. It has, and throughout the term of this Agreement will have, the full right, power, authority and competence to enter into and perform its obligations under this Agreement;
- b. This Agreement has been duly executed by such Party;
- c. This Agreement constitutes a legal, valid, and binding obligation of such Party, enforceable against it in accordance with its terms;
- d. The execution and delivery of this Agreement and the performance of such Party's obligations hereunder (i) do not conflict with or violate such Party's corporate charter or bylaws or any requirement of applicable laws or regulations, and (ii) do not and shall not conflict with, violate, breach, constitute a default, or require any consent under any agreement, contract, commitment, or obligation by which it is bound;
- e. All necessary consents, approvals and authorizations of all authorities and other Persons and entities required to be obtained by such Party in connection with the execution, delivery and performance of this Agreement have been obtained;
- f. Each of the persons signing this Agreement is duly authorized, with full authority to bind the respective Party and no signature of any other person or entity is necessary to bind the respective Party; and
- g. It has not relied on any matter, statement, representation of any adverse party or counsel, or term not expressly contained in this Agreement.

**5. CONFIDENTIALITY**

**5.1 Designation of this Agreement as Confidential Information.** The terms of this Agreement shall be considered and treated as confidential information and the Parties agree that the Parties will not disclose, directly or indirectly, any information regarding this Agreement or the claims or allegations settled to any Third Party, other than their attorneys, accountants, tax preparers, financial advisors, or unless otherwise required by law or judicial process, or in the defense of their rights or interests, provided, however, that either Party may publicly disclose that they have entered into this Agreement and name the Parties thereto. Such disclosure must specifically exclude disclosure of any of the terms and/or conditions of this Agreement. Except as expressly permitted in Section 5.2, the Parties are explicitly prohibited from making any press releases or other public statements (e.g., statements to the media) about the terms of this Agreement.

**5.2 Disclosure.** Any Party may disclose the existence and terms and/or conditions of this Agreement to (i) any court or governmental entity of competent jurisdiction requiring such disclosure, including without limitation the Securities and Exchange Commission, to the extent disclosure is required; (ii) in response to a valid subpoena or as otherwise may be required in a litigation; provided however, that the Party producing a copy of this Agreement shall exercise its best efforts to produce it subject to a protective order under an "Outside Attorneys' Eyes Only" or higher confidentiality designation; and (iii) to a counterparty in connection with a potential merger, acquisition, financing, stock offering, or related transaction, with confidentiality obligations no less restrictive than those in this Agreement. The Parties are specifically permitted to make the following press release or similar statement in response to media inquiries: "The parties have reached a time-bound, mutually agreeable business resolution."

**5.3 Materiality.** The confidentiality provisions of this Agreement are material terms of this Agreement, and any breach of these provisions will constitute a material breach of this Agreement. The failure of any Party to enforce at any time any of the provisions governing the confidentiality of the terms of this Agreement or to require at any time performance by any of the Parties of any such provisions shall in no way be construed as a waiver of such provision or relinquishment of the right thereafter to enforce such provision.

**6. BREACH**

**6.1 Material Breach.** If a Party materially breaches this Agreement:

a. The other Party may immediately terminate this Agreement upon written notice to the breaching Party, including voiding the covenant and releases set forth in Section 2.

b. The Parties agree that any material breach by a Party to this Agreement shall cause irreparable harm to the other Party which may not be adequately compensated by money damages. Accordingly, in the event of a breach or a threatened breach by a Party, the other Party shall be entitled to seek the remedies of specific performance, injunction, or other preliminary or equitable relief, without having to prove irreparable harm or actual damages. The

foregoing right shall be in addition to such other rights or remedies as may be available to each Party for such breach or threatened breach, including the recovery of money damages.

**7. ASSIGNMENT**

7.1 **Assignment.** Except as expressly permitted in this Section, no Party may assign (by contract, operation of law, or otherwise) its rights under this Agreement without the prior written consent of the other Party and any attempt to assign without such permission will be void.

**8. MISCELLANEOUS**

8.1 **Entire Agreement, Amendment, Modification and Waiver.** This Agreement constitutes and contains the entire agreement between iRobot and Matsutek, and supersedes any and all prior negotiations, conversations, correspondence, understandings, emails, and letters, respecting the subject matter hereof. This Agreement cannot be modified or amended in any respect orally or by the conduct of the Parties. This Agreement may be amended or modified or one or more provisions hereof waived only by a written instrument signed by all of the Parties. No delay or omission by any Party in exercising any right shall be construed as a waiver of such right, nor shall any single or partial exercise thereof preclude any further exercise thereof or the exercise of any other right. No waiver of any right under this Agreement shall be construed to be a previous or subsequent waiver of such right, nor shall it constitute the waiver of any performance other than the actual performance specifically waived.

8.2 **No Relationship Intended.** Nothing in this Agreement is intended or shall be deemed to constitute a partnership, agency, or joint venture relationship between iRobot and Matsutek. Neither iRobot nor Matsutek shall incur any debts or make any commitments for the other. There is no fiduciary duty or special relationship of any kind between iRobot and Matsutek. Each Party expressly disclaims any reliance on any act, word, or deed of the other Party in entering into this Agreement.

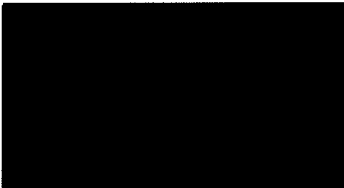
8.3 **Governing Law.** This Agreement shall be construed, and the relationship between the Parties determined, in accordance with the laws of the State of Delaware, notwithstanding any choice-of-law principle that might dictate a different governing law. This Agreement and its terms shall be valid and enforceable throughout the world. The parties specifically agree and acknowledge that by agreeing to have Delaware law govern this Agreement they are doing so for purposes of this Agreement only and that the parties have not agreed that Delaware courts would be the proper venue for resolving any disputes between the parties.

8.4 **Severability and Headings.** If one or more provisions of this Agreement are held to be invalid or unenforceable under applicable law, such provision shall be excluded from this Agreement and the balance of this Agreement shall be interpreted as if such provision were so excluded. In the event a part or provision of this Agreement is held to be invalid or unenforceable or in conflict with law for any reason, the Parties shall replace any invalid part or provision with a valid provision which most closely approximates the intent and economic effect of the invalid provision. The headings to this Agreement are for convenience only and are to be of no force or effect in construing and interpreting the provisions of this Agreement.

8.5 **Counterparts; Signatures.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which, when taken together, shall constitute one and the same instrument. This Agreement may be executed and delivered by facsimile or other means of electronic delivery and upon such delivery the signature will be deemed to have the same effect as if the original signature had been delivered to the other Party or Parties.

8.6 **Notices and Acceptance.** Any notice required or permitted under this Agreement shall be given in writing and shall be sent via overnight carrier, email, or via facsimile and certified United States mail (return receipt requested), to the addresses below:

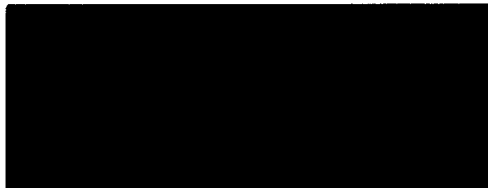
**For iRobot**



**AND**

Stephen Marshall  
Fish & Richardson P.C.  
The McPherson Building  
901 15<sup>th</sup> Street, NW, Suite 700  
Washington, D.C. 20005  
(not required for satisfying notice)

**For Matsutek**



**AND**

Harold Davis  
K&L Gates  
Four Embarcadero Center  
Suite 1200  
San Francisco, CA 94111

Any Party may give written notice of a change of address or recipient name and, after notice of such change has been received, any notice or request shall thereafter be given to such Party as above provided at such changed address and/or recipient name.

8.7 **Interpretation.** The language of this Agreement has been approved by counsel for each Party, and no Party (nor their respective counsel) shall be deemed to be the draftsman of this Agreement. Thus, any rule of construction to the effect that ambiguities are to be resolved against the drafting Party will not be applied in the interpretation of this Agreement. The words "include" and "including" and variations thereof, will not be deemed to be terms of limitation in this Agreement, but rather will be deemed to be followed by the words "without limitation."

8.8 **Consequential Damages.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO, LOSS OF PROFITS OR DAMAGES TO BUSINESS REPUTATION HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, WHETHER IN AN ACTION FOR CONTRACT, INFRINGEMENT, STRICT LIABILITY OR TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, WHETHER OR NOT A PARTY



HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY.

8.9 **Force Majeure.** No Party shall be liable for any failure to fulfill its obligations hereunder due to causes beyond its reasonable control, including but not limited to acts of omissions of government or military authority, acts of God, shortages of materials, transpiration delays, earthquakes, fires, floods, labor disturbances, riots, or wars.

8.10 **Attorney Fees, Costs, and Expenses.** Each Party shall bear its own attorney's fees, costs, and expenses in relation to the Litigations, and the negotiation and documentation of this Agreement. In the event of any breach of this Agreement, the non-breaching Party shall be entitled to attorney's fees, costs, and expenses incurred as a result of the breach, including pursuing any rights and remedies available to the non-breaching Party under this Agreement.

8.11 **Further Assurances.** The Parties agree to cooperate fully to take all additional actions that may be reasonably necessary or appropriate to give full force and effect to the terms of this Agreement.

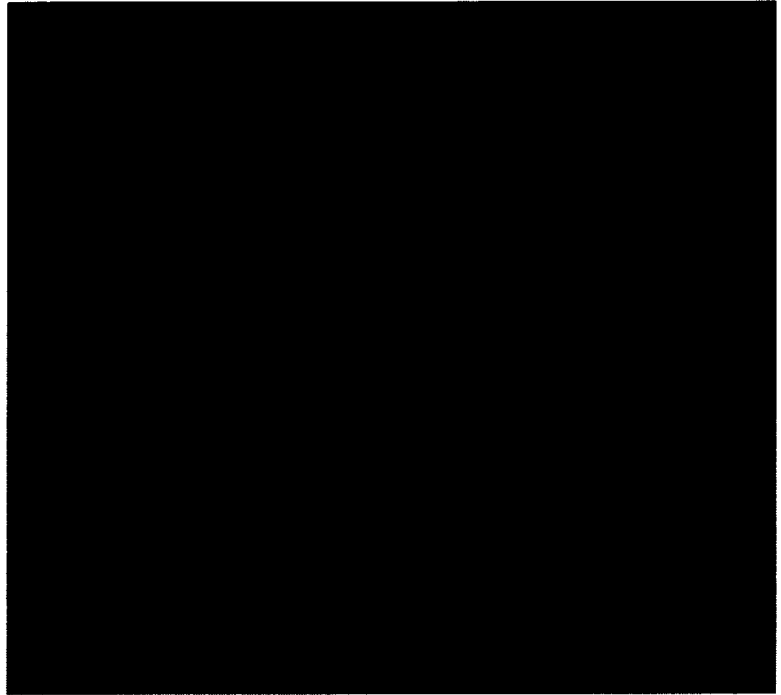
8.12 **No Hypothetical Negotiation.** The Parties acknowledge that the terms of this Agreement did not result from the legal framework of a hypothetical negotiation.

8.13 **Survival.** The provisions of Sections 1, 5, and 8 will survive any termination of this Agreement.

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**IN WITNESS WHEREOF, this Agreement has been duly executed by the Parties as of the Effective Date as follows:**



**EXHIBIT A**

**[ITC ACTION]**

**MOTION TO TERMINATE PURSUANT TO COMMISSION RULE 210.21(b)**

Pursuant to Commission Rule 210.21(b), Complainant iRobot Corp. (“iRobot”) hereby moves to terminate the investigation against Respondent Matsutec Enterprises Co., Ltd. (“Matsutec”), in whole. The remaining Respondents do not oppose this motion.

There is a settlement agreement between iRobot and Matsutec, a supplier of Bissell, concerning the subject matter of the investigation, which pursuant to Commission Rule 210.21(b), is attached to this motion. (See Confidential Exhibit 1). There are no other agreements, written or oral, express or implied, between iRobot and Matsutec or Bissell concerning the subject matter of this Investigation.

Commission Rule 210.21(b) provides that “[a]n investigation before the Commission may be terminated as to one or more respondents pursuant to section 337(c) of the Tariff Act of 1930 on the basis of a licensing or other settlement agreement.” Commission policy and the public interest general favor settlements, which preserve resources for both the Commission and the parties, and termination based on settlement agreement is routinely granted. *See, e.g., Certain Consumer Elec., Including Mobile Phones and Tablets*, Inv. No. 337-TA-839, Order No. 35, 2013 WL 453756 at \*2 (Feb. 4, 2013) (“termination of litigation under these circumstances [settlement] as an alternative method of dispute resolution is generally in the public interest and will conserve public and private resources”); *Certain Portable Commc'n. Devices*, Inv. No. 337-TA-827, Order No. 15, 2012 WL 1979229 (May 31, 2012) (unreviewed) (terminating investigation based on settlement agreement).

Complainant therefore respectfully moves for termination of the investigation with respect to Matsutek on the basis of the agreement it has entered into with Matsutek.

**EXHIBIT B**

**[ITC ACTION]**

**MOTION TO TERMINATE PURSUANT TO COMMISSION RULE 210.21(a)**

Pursuant to Commission Rule 210.21(a), Complainant iRobot Corp. ("iRobot") hereby moves to terminate the investigation against Respondent Bissell Homecare, Inc. ("Bissell"), in whole. The remaining Respondents do not oppose this motion.

There are no agreements, written or oral, express or implied, between iRobot and Bissell concerning the subject matter of the investigation. iRobot has, however, entered into a settlement agreement with Matsutek, a supplier of Bissell. (See Confidential Exhibit 1.)

Commission Rule 210.21(a) 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 to terminate an investigation in whole or in part as to any or all respondents, on the basis of the complaint or certain allegations contained therein." The Commission has also stated "in the absence of extraordinary circumstances, termination of the investigation will be granted to a complainant during the prehearing stage of an investigation." *Certain Ultrafiltration Sys. And Components Thereof, Including Ultrafiltration Membranes*, Inv. No. 337-TA-107, Comm'n Action and Order at 2 (Mar. 11, 1982).

Complainant therefore respectfully moves for termination of the investigation with respect to Bissell on the basis of the withdrawal of the complaint against Bissell.

**EXHIBIT C**

**[DISTRICT COURT ACTION]**

**MOTION FOR DISMISSAL WITH PREJUDICE – iRobot District Court Action**

Plaintiff iRobot Corp. (“iRobot”), pursuant to Fed. R. Civ. P. 41(a)(1), hereby moves to dismiss all claims by iRobot against Defendants Matsutec Enterprises Co., Ltd. and Bissell Homecare, Inc. with prejudice.

**MOTION FOR DISMISSAL WITH PREJUDICE – Matsutec District Court Action**

Plaintiff Matsutec Enterprises Co., Ltd. (“Matsutec”), pursuant to Fed. R. Civ. P. 41(a)(1), hereby moves to dismiss all claims by Matsutec against Defendant iRobot Corporation with prejudice.

**CERTAIN ROBOTIC VACUUM CLEANING DEVICES AND  
COMPONENTS THEREOF SUCH AS SPARE PARTS**

INV. NO. 337-TA-1057

**PUBLIC CERTIFICATE OF SERVICE**

I, Lisa R. Barton, hereby certify that the attached **PUBLIC INITIAL DETERMINATION  
ORDER NO. 34** has been served upon the following parties via first class mail and air mail  
where necessary, on JAN 25 2018



Lisa R. Barton, Secretary  
U.S. International Trade Commission  
500 E Street SW, Room 112A  
Washington, DC 20436

<b>FOR COMPLAINANT IROBOT CORPORATION</b>	
Stephen A. Marshall, Esq. <b>FISH &amp; RICHARDSON P.C.</b> The McPherson Building 901 15 <sup>th</sup> Street NW, 7 <sup>th</sup> Floor Washington, DC 20005	<input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Express Delivery <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____
<b>FOR RESPONDENTS BISSELL HOMECARE, INC., &amp; MATSUTEK ENTERPRISE CO. LTD.</b>	
Harold H. Davis, Esq. <b>K &amp; L GATES LLP</b> Four Embarcadero Center, Suite 1200 San Francisco, CA 94111	<input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Express Delivery <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____

**CERTAIN ROBOTIC VACUUM CLEANING DEVICES AND  
COMPONENTS THEREOF SUCH AS SPARE PARTS**

INV. NO. 337-TA-1057

**FOR RESPONDENTS THE BLACK & DECKER CORPORATION & BLACK &  
DECKER (U.S.) INC., SHENZHEN SILVER STAR INTELLIGENT TECHNOLOGY  
CO., LTD. HOOVER INC., & ROYAL APPLIANCE MANUFACTURING CO. D/B/A  
TTI FLOOR CARE NORTH AMERICA, INC. & BOBSWEEP USA, & BOBSWEEP  
INC.**

Kecia J. Reynolds, Esq.  
**PILLSBURY WINTHROP SHAW PITTMAN,  
LLP.**  
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