

PUBLIC VERSION

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

**CERTAIN TELEVISION SETS,
TELEVISION RECEIVERS,
TELEVISION TUNERS, AND
COMPONENTS THEREOF**

Inv. No. 337-TA-910

**ORDER NO. 41: DENYING RESPONDENTS' MOTION FOR SUMMARY
DETERMINATION OF NO ECONOMIC DOMESTIC INDUSTRY**

(October 16, 2014)

On October 2, 2014, Respondents Silicon Laboratories Inc., Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., LG Electronics, Inc., LG Electronics U.S.A., MaxLinear, Inc., Sharp Corporation, Sharp Electronics Corporation, VIZIO, Inc., SIO International Inc., Hon Hai Precision Industry Co., Ltd., Top Victory Investments Ltd., TPV International (USA), Inc., Wistron Corporation, and Wistron Infocomm Technology (America) Corporation (collectively, "Respondents"), filed a motion for summary determination of no economic domestic industry. (Motion Docket No. 910-037.) On October 14, 2014, Complainant Cresta Technology Corporation ("Cresta") filed its opposition to Respondents' motion. That same day Commission Investigative Staff ("Staff") filed its response to Respondents' motion. Respondents aver that they made a reasonable, good faith effort to resolve this matter with Complainant at least two days before filing the motion.

Respondents contend that "by mid-2013 (six months before the Complaint was filed),

[REDACTED]

[REDACTED] (Mem. at 1.)

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Respondents assert that Cresta's claim of significant investments is not supported by the evidence.

Specifically, Respondents state that Cresta claims "alleged investments in two TV tuner products, the XC5000 Series and the CTC70X Series." (Mem. at 4.) Respondents assert that the XC5000 Series [REDACTED] approximately one year before the Complaint was filed. (*Id.*) Respondents assert that the CTC70X [REDACTED] [REDACTED] (*Id.*) Respondents claim that Cresta "has not—and cannot—establish a reliable allocation among its claimed investments" in the alleged domestic industry products. (*Id.* at 4-5.) Respondents state that Cresta has not backed up its allegation that it has paid substantial payments to domestic manufacturers in connection with fabrication of the alleged domestic industry products. (*Id.* at 5.)¹

In opposition, Cresta says it "continues to make significant investments to support its product business" and [REDACTED] [REDACTED] [REDACTED] (Opp. at 2.) Cresta disputes the legal and factual contentions made by Respondents, stating that the decline in its business is attributable to a campaign against it by Respondent Silicon Laboratories Inc. (*Id.* at 6-9.) Cresta relies on evidence in the record as well as declarations submitted in opposition to the motion to create genuine issues of material fact concerning its production activities. (*See, e.g.,* Opp., Ex. 12 (October 14, 2014, Declaration of

¹ Respondents allege that Cresta's counsel's "speaking objections" during deposition undermine Cresta's credibility. (Mem. at 32.) I agree with Respondents that the comments of counsel noted at pages 32-35 of Respondents' Memorandum are improper. When such objections are made, the credibility of the attorney and the witness is eroded.

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Rainer Hoffmann); Opp., Ex. 25 (October 14, 2014, Declaration of Matthew Lewis); Opp., Ex. 15 (October 14, 2014, Declaration of Mihai Murgulescu.)

Staff supports the motion on the ground that Cresta [REDACTED]

[REDACTED]

[REDACTED]

(Staff's Resp. at 1-2.) Staff states that the appropriate date for determining whether a domestic industry exists is the date of filing the complaint. (*Id.* at 5.) Staff states that a domestic industry is "presumed to continue on past the filing of the complaint absent evidence to the contrary," but asserts that there is "specific" evidence to the contrary in this instance. (*Id.* at 6.) Staff asserts that the [REDACTED] and that no domestic industry exists "[e]ven when considering the facts in the light most favorable to the Complainant." (*Id.*)

Staff states that [REDACTED] and any activity related to the CTC70X series [REDACTED] as the statute requires." (*Id.* at 7.) Staff reviews the evidence supporting its statement. (*Id.* at 7-8.) Staff also notes that in July 2014, Complainant accepted a Consent Order in Investigation No. 337-TA-917 with respect to the alleged domestic industry products that [REDACTED]

[REDACTED] (*Id.* at 8.) "These facts," according to Staff, [REDACTED]

[REDACTED]

indicate that there is [REDACTED]

[REDACTED] (*Id.* at 8-9.) It is "highly unlikely," Staff says, that there is [REDACTED]

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[REDACTED] and that [REDACTED]

[REDACTED] (*Id.* at 9.) Staff says further that the record does not support the testimony of witnesses that [REDACTED]

[REDACTED]

[REDACTED] (*Id.*)

Respondents' motion raises mixed questions of law and disputed fact. Resolution of these matters will benefit from further factual development and the opportunity to evaluate witness testimony at hearing. Accordingly, Motion Docket No. 910-037 is hereby DENIED.

Within seven (7) days of the date of this Order, 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 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.

Dee Lord

Dee Lord
Administrative Law Judge

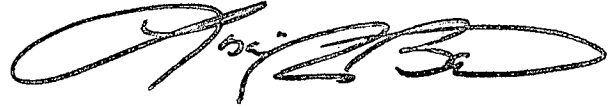
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PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER** has been served by hand upon the Commission Investigative Attorney, **Peter J. Sawert, Esq.**, and the following parties as indicated, on

NOV 28 2014



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