PUBLIC VERSION

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

In the Matter of **CERTAIN AUDIOVISUAL COMPONENTS AND PRODUCTS CONTAINING THE SAME**	**Investigation No. 337-TA-837**

RECOMMENDED DETERMINATION

Administrative Law Judge David P. Shaw

I. Background and Recommendation

This is the recommended determination ("RD") of the administrative law judge on remedy and bonding in *Certain Audiovisual Components and Products Containing the Same*, United States International Trade Commission Investigation No. 337-TA-837. As indicated in the Final Initial Determination ("ID") on violation, the administrative law judge has found a violation of section 337 of the Tariff Act, as amended (19 U.S.C. § 1337), as to one set of respondents, and no violation as to the other. Yet, the administrative law judge must issue a recommended determination concerning the appropriate remedy in the event that the Commission finds a violation as to all respondents. *See* 19 C.F.R. § 210.42(a)(1)(ii). That recommendation is contained herein below.

The Commission did not authorize the administrative law judge to take public interest evidence or to provide findings and recommendations concerning the public interest. Thus, in accordance with the usual Commission practice and the applicable Commission Rule, only the

Commission can determine the role that public interest factors may play in this investigation.[1] *See* 19 C.F.R. § 210.50(b)(1).

II. A Limited Exclusion Order

The Commission has broad discretion in selecting the form, scope, and extent of the remedy in a section 337 proceeding. *Viscofan, S.A. v. U.S. Int'l Trade Comm'n*, 787 F.2d 544, 548 (Fed. Cir. 1986). A limited exclusion order directed to respondents' infringing products is among the remedies that the Commission may impose. *See* 19 U.S.C. § 1337(d).

Complainants[2] argue that Realtek[3] imports into the United States, sells for importation into the United States, and/or sells within the United States after importation accused upstream Wi-Fi component products. Thus, it is argued, a limited exclusion order covering respondent Realtek's infringing products, regardless of model number, is appropriate. Compls. Br. at 575. With respect to Funai,[4] Complainants argue that respondent Funai admits that it imports into the United States, sells for importation into the United States, and/or sells after importation into the United States accused downstream products; and Funai's expert Mr. Vander Veen testified that,

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[1] Respondents state that they "do not and have not taken a position as to whether the Commission should issue remedial orders in view of Complainants' declaration to standard-setting organizations that three of the four asserted patents are standard essential." They further state that "Respondents may, however, take a position when the issue of public interest is before the Commission." Resps. Reply at 175. While the Commission may determine that RAND or other issues are related to public interest considerations that it must address, this RD does not address such considerations for the reasons stated above. Otherwise, it is noted that specific RAND-related defenses were ruled upon in the ID.

[2] As in the ID, LSI Corporation of Milpitas, California and Agere Systems Inc. of Allentown, Pennsylvania are referred to collectively as "Complainants."

[3] As in the ID, Realtek Semiconductor Corporation of Hsinchu, Taiwan is referred to as "Realtek."

[4] As in the ID, Funai Corporation, Inc. of Rutherford, New Jersey; P&F USA, Inc. of Alpharetta, Georgia; and Funai Service Corporation, of Groveport, Ohio are referred to collectively as "Funai." Together, Realtek and Funai are referred to as "Respondents."

from January 2011 through October 2013, Funai has imported and sold in the United States [ ] accused products. *Id.* (citing RX-008C.0031 (Vander Veen WS) at Q&A 120). Thus, it is argued, a limited exclusion order covering Funai's infringing products is appropriate. *Id.*

More specifically with respect to Funai, Complainants argue that in view of the Federal Circuit's holding in *Kyocera Wireless Corp. v. Int'l Trade Comm'n*, 545 F.3d 1340, 1358 (Fed. Cir. 2008) ("*Kyocera*"), *EPROMs*[5] analysis is not required for the Commission to issue relief covering downstream products of named respondents, *i.e.*, the Funai products. It is argued that the Commission has issued numerous limited exclusion orders covering downstream products of named respondents post-*Kyocera* without performing an *EPROMs* analysis. *Id.* at 575-76 (citing *Certain Semiconductor Chips Having Synchronous Dynamic Random Access Memory Controllers and Products Containing Same*, Inv. No. 337-TA-661, Comm'n Op. (Aug. 10, 2010); *Certain Optoelectronic Devices, Components Thereof, and Products Containing Same*, Inv. No. 337-TA-669, Comm'n Op. (July 26, 2010); *Certain Cast Steel Railway Wheels,*

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[5] *EPROMs* refers to *Certain Erasable Programmable Read-Only Memories, Components Thereof, Products Containing Such Memories, and Processes for Making Such Memories*, Inv. No. 337-TA-276, Comm'n Op. (May 16, 1989), *aff'd sub nom. Hyundai Elec. Indus. Co. v. U.S. Int'l Trade Comm'n*, 899 F.2d 1204 (Fed. Cir. 1990), and especially to the nine factors that are weighed by the Commission as part of its decision whether or not to exclude downstream products: (1) the value of the infringing articles compared to the value of the downstream products in which they are incorporated; (2) identity of the manufacturer of the downstream products (*i.e.*, are the downstream products manufactured by the party found to have committed the unfair act, or by third parties); (3) the incremental value to the complainant of the exclusion of downstream products; (4) the incremental detriment to respondents of the exclusion of downstream products; (5) the burdens imposed on third parties resulting from the exclusion of the downstream products; (6) the availability of alternative downstream products that do not contain the infringing articles; (7) the likelihood that the downstream products actually contain the infringing articles and are therefore subject to exclusion; (8) the opportunity for evasion of an exclusion order that does not include downstream products; and (9) the enforceability of an order by U.S. Customs. *See* Comm'n Op. at 125-26.

Processes for Manufacturing or Relating to Same and Certain Products Containing Same, Inv. No. 337-TA-655, Comm'n Op. (Mar. 19, 2010)). Nevertheless, in opposition to Respondents' argument that the *EPROMs* factors must be analyzed with respect to Funai, Complainants briefed the factors in detail, arguing that the factors weigh overwhelmingly in favor of an exclusion order covering Funai products that infringe. *See id.* at 576-89; Compls. Reply at 191-98.

Respondents argue that if a violation of section 337 is found, the only appropriate form of relief against Respondents would be a limited exclusion order directed solely to the specific products of Realtek integrated circuits found to infringe. Resps. Br. at 563-64.

As to Funai, Respondents argue that "notwithstanding *Kyocera*, an *EPROMs* analysis is still appropriate in investigations involving downstream products of named respondents. Numerous post-*Kyocera* investigations have considered the *EPROMs* factors in deciding whether a limited exclusion order should include downstream products." Resps. Reply at 168-69 (citing *Certain Liquid Crystal Display Modules, Products Containing Same, and Methods Using the Same*, Inv. No. 337-TA-634 ("*LCDs*"), Comm'n Op. at 4 (Nov. 24, 2009); *Certain Microprocessors, Components Thereof, and Products Containing Same*, Inv. No. 337-TA-781, Initial Determination, 2012 ITC LEXIS 6258, at *493-504 (Dec. 14, 2012); *Certain Light-Emitting Diodes and Products Containing Same*, Inv. No., 337-TA-784, Recommended Determination at 2-9 (July 23, 2012)). Further, it is argued, an analysis of the *EPROMs* factors "reveals that Complainants have not demonstrated that a limited exclusion order should be extended to the Funai downstream products." *See* Resps. Br. at 567-82.

Having considered the arguments of the parties and the evidence of record, the administrative law judge recommends that in the event the Commission determines that a violation of section 337 has occurred, the Commission should issue a limited exclusion order

covering the infringing products of any party found to infringe. If Funai is found to infringe, the exclusion order should cover infringing Funai downstream products.

Specifically with respect to Realtek, Respondents' arguments appear to seek an exclusion order that would cover only "specific models of accused Realtek Wi-Fi components," and Respondents further request that any order not include a list of products that Complainants did not accuse in this investigation. *See id.* at 564-65. Realtek's request cannot be granted for at least the following reasons. First, it is not the Commission's practice to issue exclusion orders that identify products by model number. Second, as already discussed in the ID, products that have not been accused are not found necessarily to be non-infringing. Finally, Respondents' proposed formulation of an exclusion order would appear on its face to allow the future importation of infringing products if they bear a different model number from those found to infringe in this investigation. It is, however, recommended that any exclusion order issued in this investigation, whether it pertains or Realtek or to Funai, or to both, contain a certification provision because such a provision could assist in the proper administration of the order.[6]

With respect to the parties' arguments concerning Funai downstream products, the Federal Circuit's opinion in *Kyocera* does not reach the question of whether the Commission should consider the *EPROMs* factors when deciding whether or not to include the downstream products of a respondent in a limited exclusion order. Furthermore, the *EPROMs* factors have been considered, even after the issuance of the *Kyocera* opinion. *See LCDs*, Comm'n Op. at 4-5

[6] An exclusion order may contain a provision that permits entities whose products are potentially excludable under the order to certify, pursuant to procedures to be specified by U.S. Customs and Border Protection, that they are familiar with the terms of the order, that they have made appropriate inquiry, and that, to the best of their knowledge and belief, the products being imported are not excluded from entry under the order. *See, e.g., Certain Semiconductor Chips with Minimized Chip Package Size or Products Containing Same*, Inv. No. 337-TA-605, Comm'n Op. at Section II.D.2 (July 29, 2009).

& n.5. In any event, as discussed below, a review of the facts relevant to the *EPROMs* factors supports the extension of any limited exclusion order to Funai downstream products, if it is found that Funai has violated section 337.

With respect to the first *EPROMs* factor (comparative value), from a qualitative standpoint, even though the cost of the accused chips may be a relatively small portion of the sales price of the downstream product, the chips are critical to the core functionality of the downstream consumer electronics products and thus essential to their competitiveness. If the Commission determines that the asserted '958, '867 and '663 patents are infringed and essential patents that are required for the accused downstream products to perform the functions of the 802.11 IEEE Wi-Fi standard or the H.264 ITU-T standard, respectively, then they would be of great value. *See* CX-1643C (Negus RWS) at Q&A 7, Q&A 10; CX-1597C (Reinman WS) at Q&A 221. With respect to the '087 patent, the evidence shows that it, too, is of great value because the technology covered by the patent simplifies video decoder systems, thus reducing the total memory needed for and the cost of such systems in multimedia devices (including Funai Blu-Ray players). *See* CX-1594C (Acton WS) at Q&A 209, Q&A 262; CX 1595C (Kerr WS) at Q&A 53, Q&A 418-426; CX-1642C (Kerr RWS) at Q&A 18-39.

From a quantitative standpoint, it is noted that Complainants do not rely on their own analysis, but rather show flaws in the analyses offered by Respondents and their expert, and their estimates. Nevertheless, even if Respondents' argument is accepted, and the asserted patents, on average, account for a little over [ ] of the value of downstream products, such low numerical estimates do not necessarily preclude a finding that the value of the infringing articles is great when compared to the value of the downstream products in which they are incorporated. *See Certain Electrical Connectors and Products Containing Same*, Inv. No. 337-TA-374, USITC

Pub. No. 2981, Comm'n Op. on Remedy, the Public Interest and Bonding, 1996 WL 1056313, at *8-12 (July 1996). That is especially true in this case, in which the accused articles are of great qualitative value. Consequently, although the evidence could be stronger, this first of the *EPROMs* factors supports the exclusion of downstream products through a limited exclusion order directed at Funai products.

With respect to the second *EPROMs* factor (identity of the manufacturer), there is no impediment to excluding downstream products through a limited exclusion order, inasmuch as there is no dispute that Funai manufactures the downstream products.

With respect to the third *EPROMs* factor (incremental value), the record shows that it strongly favors the inclusion of downstream products. In order for Complainants to receive any relief from a limited exclusion order issued in this investigation, it must include downstream products because the accused chips are not imported in any significant amount except as a component in Funai's consumer electronic products. *See* CX-1595C (Kerr WS) at Q&A 418; RX-0008C (Vander Veen WS) at Q&A 120. Thus, Complainants, as well as their licensees (which pay royalties to Complainants), could expect an increase in sales of their licensed products if an exclusion order covering Funai's infringing downstream products is issued. *See* CX-1595C (Kerr WS) at Q&A 429; CX-1642C (Kerr RWS) at Q&A 41; RX-0008C (Vander Veen WS) at Q&A 116-117. Further, Complainants' domestic licensing practice, which Complainants are seeking to expand, would also benefit from a finding of violation and issuance of remedial orders covering downstream relief. *See* CX-1645C (Waskiewicz RWS) at Q&A 56-63.

With respect to the fourth *EPROMs* factor (incremental detriment), there can be no doubt that a limited exclusion order covering infringing Funai downstream products would work to the

detriment of Funai. Yet, this factor does not weigh heavily against the inclusion of downstream products in an exclusion order because it is not possible to tell from Funai's arguments how much of the detriment would exist exclusively as a result of its own infringement, or how much could be diminished through the certification provision recommend above. *See* Resps. Br. at 577-78.

With respect to the fifth *EPROMs* factor (burden on third parties), the parties' arguments concern warranty and repair. As noted by the parties, the Commission may allow importation for such purposes. Thus, this factor does not weigh against a limited exclusion order that covers downstream products.

With respect to the sixth *EPROMs* factor (availability of alternative downstream products), it is reasonable to expect a reduction in consumer choice, but the extent of such a detriment is not detailed by Respondents. *See* Resps. Br. at 579. Furthermore, there is evidence of the availability of substitute products, especially those imported or sold by Complainants' licensees. *See* CX-1642C (Kerr RWS) at Q&A 47-60; RX-0008C (Vander Veen WS) at Q&A 146. Thus, notwithstanding any public interest consideration that may be brought before the Commission, this factor does not weigh against the exclusion of downstream products through a limited exclusion order.

With respect to the seventh *EPROMs* factor (likelihood that downstream products contain infringing articles), the evidence shows that Funai manufactures all of the downstream products that would be subject to an exclusion order. *See, e.g.*, JX-0030C (Sept. 26, 2012 Kanazawa Dep.) at 51; CX-1595C (Kerr WS) at Q&A 428. Thus, with the certification provision recommended above, this factor strongly supports the exclusion of downstream products.

With respect to the eighth *EPROMs* factor (opportunity for evasion), the parties agree that given the nature of Funai's production, there is little opportunity to evade an exclusion order. These facts neither show the necessity for a downstream order, nor show that there is an impediment to such an order.

With respect to the ninth *EPROMs* factor (enforceability), Respondents have shown that a limited exclusion order covering Funai downstream products could result in the exclusion of many products. *See* Resps Br. at 581-82; RX-0008C (Vander Veen WS) at Q&A 166. Nevertheless, Funai manufactures the products in question, and should also have available the certification provision recommended above. Consequently, consideration of this factor lends support to the exclusion of downstream products through a limited exclusion order directed at Funai products, if it is found that Funai has violated section 337, as do the *EPROMs* factors when considered in their entirety.

III. Cease and Desist Orders

Section 337 provides that in addition to, or in lieu of, the issuance of an exclusion order, the Commission may issue a cease and desist order as a remedy for a violation of section 337. 19 U.S.C. § 1337(f)(1). The Commission may issue a cease and desist order when it has personal jurisdiction over the party against whom the order is directed. *Gamut Trading Co. v. U.S. Int'l Trade Comm'n*, 200 F.3d 775, 784 (Fed. Cir. 1999).

The Commission "generally issues a cease and desist order only when a respondent maintains a commercially significant inventory of infringing products in the United States." *Certain Ground Fault Circuit Interrupters and Products Containing Same*, Inv. No. 337-TA-615, Comm'n Op. at 24 (Mar. 26, 2009); *Certain Video Game Systems, Accessories, and Components Thereof*, Inv. No. 337-TA-473, Comm'n Op. at 2 (Dec. 24, 2002). Indeed,

cease and desist orders are usually issued when a commercially significant amount of infringing imported product could be sold so as to undercut the remedy provided by an exclusion order. *Certain Protective Cases and Components Thereof*, Inv. No. 337-TA-780, Comm'n Op. at 28 (Nov. 19, 2012) (citing *Certain Laser Bar Code Scanners and Scan Engines, Components Thereof, and Products Containing Same*, Inv. No. 337-TA-551, Comm'n Op. (Pub. Version) at 22 (June 14, 2007)).

Complainants argue that the evidence in this investigation establishes that Funai keeps a commercially significant inventory of the accused downstream products in the United States, and in particular that Funai Corporation stores or stored the accused downstream products in warehouses in [ ] and ships those products to its customers from these warehouses. Compls. Br. at 592-93 (citing JX-0030C (Jan. 16, 2013 Kanazawa Dep.) at 35-40; CX-0920C (Funai 1st Response to 1st Interrog. Set, Jun. 22, 2012) at 11-12). It is argued that Funai Corporation stores [ ] of imported accused downstream products in inventory across its United States warehouses, depending on the season; and that P&F USA, Inc. stores between a [ ] of imported accused downstream products in inventory across its United States warehouses, depending on the season. *Id.* at 593 (citing JX-0030C (Jan. 16, 2013 Kanazawa Dep.) at 41-42; JX-0037C (Jan. 18, 2013 Luengen Dep.) at 39-41). Thus, Complainants argue, "if a violation is found, the ALJ should recommend and the Commission should issue a cease and desist order against Funai." Compls. Br. at 592-93; Compls. Reply at 198-200.

Respondents argue that Complainants appear to have withdrawn their request for a cease and desist order as to Realtek inasmuch as no evidence has been provided to support such a request. Resps. Reply at 174 (citing Compls. Br. at 593; Resps. Br. at 584). As to Funai,

Respondents argue that Complainants have not met their burden of demonstrating that Funai has "commercially significant" inventory of accused products in the United States for any of the asserted patents (rather than general inventory), and thus no cease and desist order should issue even if a violation of section 337 is found. *Id.* at 174-75; Resps. Br. at 585-87 (citing *Certain Digital Imaging Devices and Related Software*, Inv. No. 337-TA-717, Initial Determination, 2011 WL 2742200, at *176 (May 12, 2011) (refusing to recommend a cease and desist order because complainants provided only general information regarding the quantity of products imported and failed to provide information regarding the domestic inventory of accused products); *Certain Bulk Welding Containers*, Inv. No. 337-TA-686, Initial Determination, 2010 WL 997812, at *167 (Jul. 29, 2010) (refusing to recommend a cease and desist order, declining to assume that because respondent previously imported certain quantities of product in the past, that it must be holding a commercially significant amount at present)).

Complainants have not requested any cease and desist order with respect to Realtek, nor have they indicated that there is sufficient evidence of record to support such an order. *See* Compls. Br. at 592-93; Compls. Reply at 199-200. Consequently, it is recommended that even if the Commission reverses the ID to find that Realtek has violated section 337, a cease and desist order should not issue as to Realtek.

Also with respect to the Funai respondents, it is recommended that even if the Commission finds a violation of section 337, the Commission should not issue a cease and desist order as to any Funai respondent. The evidence does show that each of the Funai respondents maintains an inventory of accused products in the United States, and that the products are kept in warehouses located in at least the following states: [ ] CX-0920C at 11-13 (Resp. to Interrog. No. 30 concerning the warehousing of accused products).

Further, if the amounts of inventories alleged by Complainants could be established ([ ] in the case of Funai Corporation, Inc., and [ ] in the case of P&F USA, Inc.[7]), it would be found that the inventories could be used to undercut a limited exclusion order. Yet, the evidence relied upon by Complainants does not establish those amounts. *See* JX-0030C (Jan. 16, 2013 Kanazawa Dep.) at 41-42; JX-0037C (Jan. 18, 2013 Luengen Dep.) at 39-41.

IV. Bond

Pursuant to section 337(j)(3), the administrative law judge and the Commission must determine the amount of bond to be required of a respondent, during the 60-day Presidential review period following the issuance of permanent relief, in the event that the Commission determines to issue a remedy. The purpose of the bond is to protect the complainant from any injury. 19 U.S.C. § 1337(j)(3); 19 C.F.R. §§ 210.42(a)(1)(ii), 210.50(a)(3).

When reliable price information is available, the Commission has often set bond by eliminating the differential between the domestic product and the imported, infringing product. *Certain Microsphere Adhesives, Processes for Making Same, and Products Containing Same, Including Self-Stick Repositionable Notes*, Inv. No. 337-TA-366, Comm'n Op. at 24 (1995). In other cases, the Commission has turned to alternative approaches, especially when the level of a reasonable royalty rate could be ascertained. *Certain Integrated Circuit Telecommunication Chips and Products Containing Same, Including Dialing Apparatus*, Inv. No. 337-TA-337, Comm'n Op. at 41 (1995). A 100 percent bond has been required when no effective alternative existed. *Certain Flash Memory Circuits and Products Containing Same*, Inv. No. 337-TA-382,

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[7] Complainants' argument with respect to Funai Service Corp. is unclear. *See* Compls. Br. at 592-93.

USITC Pub. No. 3046, Comm'n Op. at 26-27 (July 1997) (a 100% bond imposed when price comparison was not practical because the parties sold products at different levels of commerce, and the proposed royalty rate appeared to be *de minimis* and without adequate support in the record).

Complainants argue that inasmuch as Complainants do not manufacture or sell products that compete with Respondents' accused products, and Respondents have rejected or ignored Complainants' efforts to negotiate a reasonable royalty rate that covers infringement of the asserted patents, it is appropriate for the Commission to set the bond at 100% of entered value. It is argued that any other bond would be unfair to Complainants' legitimate licensees who do manufacture and sell products in competition with the Respondents, and that setting the bond at a low royalty rate would essentially put Respondents in the same position and on a par with Complainants' licensees who have negotiated reasonable royalty rates based on their use and need for Complainants' patented technology. *See* Compls. Br. at 594. Additionally, Complainants argue that Respondents cannot rely on Complainants' license agreements (or a recent district court decision) that involves other companies to assert that a standard reasonable rate is known, because those licenses resulted from good faith negotiations, which Respondents have rejected, and are based on the facts pertinent to particular licensees. *See* Compls. Reply at 200.

Respondents argue that if a bond is imposed during a Presidential review period, it should not exceed [ ]. Resps. Br. at 590-93; Resps. Reply at 175-76. They base their argument on licenses that Complainants have with other companies which, Respondents assert, are similarly situated to Funai or Realtek. The highest royalty rate they point to is found in the license between Agere and [ ], which has a [ ] royalty rate. Further, they argue, inasmuch

as certain asserted patents are subject to RAND obligations, the Commission should look to what courts have determined to be a proper RAND rate for patents considered essential to the H.264 and 802.11 standards. Under such an analysis, it is argued, a proper rate would be between 0.555 and 16.389 cents per unit for the '867 and '958 patents (the RAND rate recently set by a federal district court in Washington for the entire 802.11 portfolio of standard-essential patents ("SEPs") held by Motorola in *Microsoft Corp. v. Motorola, Inc.*, No. 2:10-cv-01823-JLR (W.D. Wash. Apr. 25, 2013), and between 0.8 and 19.5 cents per unit for the '663 patent (the RAND rate set for the entire H.264 portfolio of standard-essential patents in the same case). Moreover, it is argued that "any bond should be calculated on the value of Realtek's ICs or the ICs used by Funai in its products, because the IC is the smallest salable component that would infringe Complainants' patents." Resps. Br. at 591-93 (citing, *inter alia*, RX-0009C (Leonard WS) at Q&A 222-223).

Complainants are correct that they do not manufacture or sell products that compete with those of Respondents. Indeed, the difficulty in determining a reasonable royalty rate by looking at rates and other terms negotiated between Complainants and their current licensees is addressed in the ID, at least with respect to the asserted SEPs. Yet, Complainants have not provided any legal support for the proposition that Respondents should be subject to a 100% bond due to their failure to conclude their own license agreements with Complainants, or that the purpose of the bond is to ensure that Respondents do not attain equal footing with licensees. Moreover, the evidence of record does not support a 100% bond, which may be imposed when no effective alternative exists.

There is no evidence that any company pays a royalty anywhere near 100% in the relevant industry for the use of technology covered by the asserted patents or related patent

portfolios (whether or not they contain only SEPs). Furthermore, Respondents are correct that there is no evidence of any company paying more than a [ ] royalty rate [ ] with respect to any patent asserted in this investigation. Respondents have not, however, provided support for their argument that the royalty rate should be applied only to a Realtek integrated circuit; and the evidence relating to the [ ] rate shows [ ]. *See, e.g.*, RX-0009C (Leonard WS) at Q&A 222-223; CX-0035C.

Accordingly, it is recommended that if the Commission determines that a violation of section 337 has occurred, the bond for any importations of infringing products during the Presidential review period should be [ ] of entered value.

V. Conclusion and Order

It is recommended that, unless the public interest requires that remedies be set aside or modified, if a violation of section 337 is found in this investigation, the Commission should (1) issue a limited exclusion order, which includes Funai downstream products if a violation is found as to Funai, and (2) require a [ ] importation bond during the Presidential review period.

It is ordered that by no later than August 7, 2013, each party shall file with the Commission Secretary a statement as to whether or not it seeks to have any portion of this document redacted from the public version. Any party seeking to have a portion of this document redacted from the public version must submit to this office a copy of this document with red brackets indicating the portion, or portions, asserted to contain confidential business information.[8]

David P. Shaw
Administrative Law Judge

Issued: July 31, 2013

[8] Confidential business information ("CBI") is defined in accordance with 19 C.F.R. § 201.6(a) and § 210.5(a). When redacting CBI or bracketing portions of documents to indicate CBI, a high level of care must be exercised in order to ensure that non-CBI portions are not redacted or indicated. Other than in extremely rare circumstances, block-redaction and block-bracketing are prohibited. In most cases, redaction or bracketing of only discrete CBI words and phrases will be permitted.

CERTAIN AUDIOVISUAL COMPONENTS AND PRODUCTS CONTAINING THE SAME

Inv. No. 337-TA-837

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **RECOMMENDED DETERMINATION** was served upon the following parties as indicated, on AUG 14 2013.

Lisa R. Barton, Acting Secretary
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