

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

**Before the Honorable Monica Bhattacharyya
Administrative Law Judge**

In the Matter of

**CERTAIN OUTDOOR AND SEMI-
OUTDOOR ELECTRONIC DISPLAYS,
PRODUCTS CONTAINING SAME,
AND COMPONENTS THEREOF**

Inv. No. 337-TA-1331

**COMPLAINANT'S RESPONSE TO RESPONDENTS' MOTION FOR
SUMMARY DETERMINATION (MOTION DKT. NO. 1331-007)**



TABLE OF CONTENTS

I. INTRODUCTION 1

II. LEGAL STANDARDS 2

 A. Summary Determination 2

 B. Patent Infringement 4

 C. Adjudicating Non-Accused Products 4

III. MRI’S RESPONSE TO RESPONDENTS’ STATEMENT OF UNDISPUTED MATERIAL FACTS 6

 A. Respondents Admit They Seek Adjudications of Noninfringement That Are Not at Issue in the Investigation 7

 B. Genuine Disputes of Material Facts Exist as to Respondents’ Arguments that Particular Claim Limitations Are Not Met 8

 1. The OH24B Product 8

 2. The OM46N, OM55N, OM46B, OM55B, and OM75A Products 12

 3. The “Non-Accused Claims” for the Accused Products 13

 i. The Accused OH46/55 Products 13

 ii. The Accused OH75/85 Products 15

IV. ARGUMENT 18

 A. Non-Accused OH24B Product 18

 1. Summary Determination of Non-Infringement of the Non-Accused OH24B Product is Not Warranted 18

 2. Even if Non-Infringement of the Non-Accused OH24B Product Were Adjudicated, Genuine Issues of Material Fact Preclude Summary Determination 20

 B. Non-Accused OM46B, OM46N, OM55B, OM55N, and OM75A Products 23

 1. Summary Determination of Non-Infringement of the Non-Accused OM46B, OM46N, OM55B, OM55N, and OM75A Products is Not Warranted 23



2. Even if Non-Infringement of the Non-Accused OM46B, OM46N, OM55B, OM55N, and OM75A Products Were Adjudicated, Genuine Issues of Material Fact Preclude Summary Determination..... 24

C. Summary Determination of Non-Infringement of the Accused OH46/55 and OH75/85 Products as to “Non-Accused Claims” is Not Warranted..... 24

1. The Accused OH46/55 Products..... 25

2. The Accused OH75/85 Products..... 27

V. CONCLUSION 29

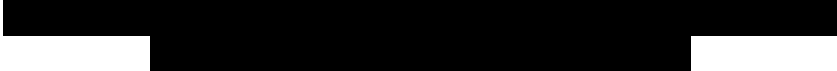
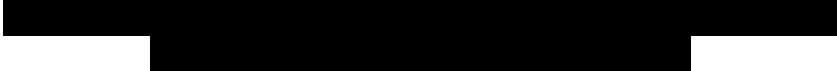


TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Advanced Cardiovascular Sys. v. SciMed Life Sys., Inc.</i> , 261 F.3d 1329 (Fed. Cir. 2001).....	4
<i>Allen Eng’g Corp. v. Bartell Indus.</i> , 299 F.3d 1336 (Fed. Cir. 2002).....	4
<i>Cadence Pharms Inc. v. Exela PharmSci Inc.</i> , 780 F.3d 1364 (Fed. Cir. 2015).....	20
<i>Centricut, LLC v. The Esab Grp., Inc.</i> , 390 F.3d 1361 (Fed. Cir. 2004).....	4
<i>Certain Automobile Tail Light Lenses & Prods. Incorporating Same</i> , Inv. No. 337-TA-502, Order No. 8 (July 9, 2004).....	2
<i>Certain Earpiece Devices & Components Thereof</i> , Inv. No. 337-TA-1121, Comm’n Op. (Oct. 31, 2019).....	3
<i>Certain Elec. Devices, Including Streaming Players, Televisions, Set Top Boxes, Remote Controllers, & Components Thereof</i> , Inv. No. 337-TA-1200, Initial Det., 2021 WL 3185836 (July 9, 2021)	19
<i>Certain Elec. Digital Media Devices & Components Thereof</i> , Inv. No. 337-TA-796, Comm’n Op., 2013 WL 10734395 (Aug. 9, 2013)	5
<i>Certain Flocked Swabs, Prods. Containing Flocked Swabs, & Methods of Using Same</i> , Inv. No. 337-TA-1279, Order No. 55 (June 23, 2022)	20, 23
<i>Certain Human Milk Oligosaccharides & Methods of Producing the Same</i> , Inv. No. 337-TA-1120, Comm’n Op., 2020 WL 3073788 (June 8, 2020).....	4, 5, 19, 24
<i>Certain Memory Modules & Components Thereof, & Prods. Containing Same</i> , Inv. No. 337-TA-1023, Order No. 12 (April 17, 2017).....	21
<i>In the Matter of Certain MEMS Devices & Prods. Containing the Same</i> , Inv. No. 337-TA-700, 2010 WL 4780032 (July 12, 2010).....	6
<i>Certain Polycrystalline Diamond Compacts & Articles Containing Same</i> , Inv. No. 337-TA-1236, Order No. 38, 2021 WL 4262450 (Sept. 9, 2021)	18



Certain RF Capable Integrated Circuits & Prods. Containing the Same,
 Inv. No. 337-TA-982, Order No. 14, 2016 WL 4426486 (Aug. 4, 2016)5, 6

*Certain Robotic Vacuum Cleaning Devices & Components Thereof Such as Spare
 Parts*,
 Inv. No. 337-TA-1057, Order No. 38, 2018 WL 1026947 (Feb. 13, 2018)5, 6, 18

Certain Two-Way Radio Equip. & Sys., Related Software & Components Thereof,
 Inv. No. 337-TA-1053, Comm’n Op. (Dec. 18, 2018)5, 19, 24

Crown Ops. Int’l, Ltd., v. Solutia Inc.,
 289 F.3d 1367 (Fed. Cir. 2002).....3

Crystal Semiconductor Corp. v. TriTech Microelectronics Intern., Inc.,
 246 F.3d 1336 (Fed. Cir. 2001).....21

Cytologic Corp. v. Ventana Med. Systems, Inc.,
 424 F.3d 1168 (Fed. Cir. 2005).....21

EMI Group N. Am., Inc. v. Intel Corp.,
 157 F.3d 887 (Fed. Cir. 1998).....3

Mas-Hamilton Grp. v. LaGard, Inc.,
 156 F.3d 1206 (Fed. Cir. 1998).....4

Mems Tech. Berhad v. Int’l. Trade Comm’n,
 447 Fed. Appx. 142, 2011 WL 2214091 (Fed. Cir. June 3, 2011)22

Meyer Intell. Props. Ltd. v. Bodum, Inc.,
 690 F.3d 1354 (Fed. Cir. 2012).....3

Paragon Podiatry Lab., Inc. v. KLM Labs., Inc.,
 984 F.2d 1182 (Fed. Cir. 1993).....3

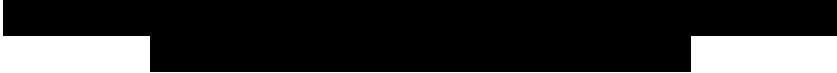
Sandt Tech., Ltd. v. Resco Metal & Plastics Corp.,
 264 F.3d 1344,1357 (Fed. Cir. 2001).....3

Tessera, Inc. v. Int’l Trade Comm’n,
 646 F.3d 1357 (Fed. Cir. 2011).....4

Xerox Corp. v. 3Com Corp.,
 267 F.3d 1361 (Fed. Cir. 2001).....3

Statutes

19 U.S.C. § 1337(a)(1)(B)4



Other Authorities

19 C.F.R. § 210.18(a).....2, 20

19 C.F.R. § 210.18(b)2

Federal Rule of Civil Procedure 562



TABLE OF EXHIBITS

Exhibit	Description
A	Opening Expert Report of Robert Smith Gillespie (excerpted)
B	Appendix A-4 to Respondents' December 14, 2022 Joint Disclosure of Initial Invalidity Contentions
C	Appendix B-6 to Respondents' December 14, 2022 Joint Disclosure of Initial Invalidity Contentions
D	Samsung Electronics' Sixth Supplemental Responses to MRI's First Set of Interrogatories (Nos. 1-39) (excerpted)
E	Samsung Cooling System More(75 85).pptx (SEITC0027582-SEITC0027589)
F	Rebuttal Expert Report of Dr. Himanshu Pokharna (excerpted)

I. INTRODUCTION

Complainant Manufacturing Resources International, Inc. (“Complainant” or “MRI”) respectfully submits the following response in opposition to Respondents’ Motion for Summary Determination alleging that (1) the OH24B Product does not infringe any asserted claim; (2) the OM46B, OM46N, OM55B, OM55N, and OM75A products do not infringe any asserted claim; and (3) the Accused OH46/55 and OH75/85 Products do not infringe certain claims. *See* Respondents’ Motion for Summary Determination and Memorandum in Support (Mot. Dkt. No. 1331-008, EDIS Doc. ID 795633) (“Motion” or “Mot.”) (April 27, 2023).

As Respondents admit in their Motion, the OH24B Product has not been included in the infringement allegation. The same is true for the OM46B, OM46N, OM55B, OM55N, and OM75A products. Because these products are not accused, nor are they redesigns of accused products, they fall outside the scope of a regular investigation and summary determination of non-infringement is not warranted.

Summary determination of non-infringement is also unwarranted for the claims of the asserted patents that the Accused OH46/55 and OH75/85 Products are not accused of infringing. Complainant has selected a subset of the claims of the asserted patents for adjudication in this investigation to maintain a reasonable scope, particularly given the limitations on hearing time and prehearing brief length. Complainant’s assertion of a subset of claims in no way suggests that other claims are not infringed, and indeed, the underlying issues identified by Respondents in their Motion are hotly contested by the parties. Granting Respondents’ motion would in effect unfairly transform the limitations Complainant was forced to make due to Commission procedures into forced admissions of non-infringement, and apply claim preclusion to ITC proceedings.

To the extent the Administrative Law Judge is nevertheless inclined to adjudicate noninfringement of any of these three groups of products, there are genuine issues of material fact in dispute relating to the noninfringement arguments Respondents seek to have resolved such that rendering summary determination would not be appropriate.

As explained below, adjudicating noninfringement based on the arguments and evidence put forth by Respondents would not serve the interest of providing predictability in the enforcement of remedial orders. It would only generate confusion.

MRI respectfully requests that the ALJ deny the Motion for Summary Determination.

II. LEGAL STANDARDS

A. Summary Determination

Under Commission Rule 210.18(a), a “party may move . . . for a summary determination in its favor upon all or any part of the issues to be determined in the investigation.” 19 C.F.R. § 210.18(a). Summary determination shall be rendered if the pleadings and evidence “show that there is no genuine issue as to any material fact and that the moving party is entitled to a summary determination as a matter of law.” 19 C.F.R. § 210.18(b).

“The substantive aspects of the Commission’s Rule on summary determination are analogous to Federal Rule of Civil Procedure 56, under which summary judgment is proper if there is a showing that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” *Certain Automobile Tail Light Lenses & Prods. Incorporating Same*, Inv. No. 337-TA-502, Order No. 8 at 4 (July 9, 2004) (citing *Celotex Corp. v. Catrett*, 477 U.S. 317, 322–23 (1986)).

Summary determination is appropriate when the relevant material facts are so clear and beyond dispute that a hearing on the matter at issue would serve no useful purpose. *See, e.g.*,

[REDACTED]

Sandt Tech., Ltd. v. Resco Metal & Plastics Corp., 264 F.3d 1344,1357 (Fed. Cir. 2001) (Dyk, C.J., concurring) (“Where an issue as to a material fact cannot be resolved without observation of the demeanor of witnesses in order to evaluate their credibility, summary judgment is not appropriate.”); *see also Certain Earpiece Devices & Components Thereof*, Inv. No. 337-TA-1121, Comm’n Op. at 11 (Oct. 31, 2019). In making this assessment, the evidence must be viewed in the light most favorable to the nonmovant, and all reasonable inferences must be drawn in favor of the nonmovant. *See, e.g., Meyer Intell. Props. Ltd. v. Bodum, Inc.*, 690 F.3d 1354, 1370 (Fed. Cir. 2012). Any doubt as to the existence of a genuine issue of material fact must be resolved in favor of the non-moving party. *See, e.g., Crown Ops. Int’l, Ltd., v. Solutia Inc.*, 289 F.3d 1367, 1375 (Fed. Cir. 2002) (internal citations omitted); *Xerox Corp. v. 3Com Corp.*, 267 F.3d 1361, 1364 (Fed. Cir. 2001) (“When ruling on a motion for summary judgment, all of the nonmovant’s evidence is to be credited, and all justifiable inferences are to be drawn in the nonmovant’s favor.”).

The trier of fact should “assure itself that there is no reasonable version of the facts, on the summary judgment record, whereby the nonmovant could prevail, recognizing that the purpose of summary judgment is not to deprive a litigant of a fair hearing, but to avoid an unnecessary trial.” *EMI Group N. Am., Inc. v. Intel Corp.*, 157 F.3d 887, 891 (Fed. Cir. 1998). “In other words, ‘[s]ummary judgment is authorized when it is quite clear what the truth is’ . . . and the law requires judgment in favor of the movant based upon facts not in genuine dispute.” *Paragon Podiatry Lab., Inc. v. KLM Labs., Inc.*, 984 F.2d 1182, 1185 (Fed. Cir. 1993) (citations omitted).

B. Patent Infringement

It is a violation of Section 337 to engage in “[t]he importation into the United States, the sale for importation, or the sale within the United States after importation . . . of articles that . . . infringe a valid and enforceable United States Patent[.]” 19 U.S.C. § 1337(a)(1)(B). Determining patent infringement is a two-step process. The first step is to construe the asserted claims. The second step is to compare the properly construed claims to the accused product. While construction is a question of law, the comparison of the accused device to the claims is a question of fact. *Tessera, Inc. v. Int’l Trade Comm’n*, 646 F.3d 1357, 1364 (Fed. Cir. 2011); *Advanced Cardiovascular Sys. v. SciMed Life Sys., Inc.*, 261 F.3d 1329, 1336 (Fed. Cir. 2001).

Direct infringement exists only where every element of a claim reads exactly on an accused device. *Allen Eng’g Corp. v. Bartell Indus.*, 299 F.3d 1336, 1345 (Fed. Cir. 2002). “If even one limitation is missing or not met as claimed, there is no literal infringement.” *Mas-Hamilton Grp. v. LaGard, Inc.*, 156 F.3d 1206, 1211 (Fed. Cir. 1998). The patentee has the burden of proving infringement by a preponderance of the evidence. *See, e.g., Centricut, LLC v. The Esab Grp., Inc.*, 390 F.3d 1361, 1367 (Fed. Cir. 2004).

C. Adjudicating Non-Accused Products

Under certain circumstances, the Commission has deemed it appropriate to adjudicate the noninfringement of non-accused products. *See Certain Human Milk Oligosaccharides & Methods of Producing the Same*, Inv. No. 337-TA-1120, Comm’n Op., 2020 WL 3073788, at *11 (June 8, 2020) (“*Oligosaccharides*”).

Specifically, the Commission favors “adjudicating *redesigns* to prevent subsequent and potentially burdensome proceedings that could have been resolved in the first instance in the original Commission investigation.” *Oligosaccharides*, at *11 (emphasis added). This is

[REDACTED]

because, as a policy matter, “[a]llowing respondents to put forward redesigned products for adjudication serves the interest of providing predictability in the enforcement of remedial orders.” *Certain Two-Way Radio Equip. & Sys., Related Software & Components Thereof*, Inv. No. 337-TA-1053, Comm’n Op., at 23 (Dec. 18, 2018); *see also Oligosaccharides*, at *11 (explaining adjudication of redesigns of accused products is favored because “redesigned products are still within the scope of remedial orders that are issued upon the termination of the investigation even if such products were not adjudicated for infringement in the original investigation.”)

The Commission has found, however, that adjudication may be unnecessary or inappropriate where a complainant has not accused certain products of infringement or the allegations against those products are withdrawn. *See, e.g., Certain Elec. Digital Media Devices & Components Thereof*, Inv. No. 337-TA-796, Comm’n Op., 2013 WL 10734395, at *71 (Aug. 9, 2013); *Certain Robotic Vacuum Cleaning Devices & Components Thereof Such as Spare Parts*, Inv. No. 337-TA-1057, Order No. 38, 2018 WL 1026947, at *2 (Feb. 13, 2018) (“*Certain Robotic Vacuum Cleaning Devices*”) (explaining “a reasonable inference to draw from the Commission’s explanation [in Inv. 382] is that when a complainant notices and then withdraws an allegation of infringement, that allegation no longer needs to be considered . . . Surely, an allegation of infringement that was never noticed, let alone noticed and then withdrawn, need not be considered either.”); *see also Certain RF Capable Integrated Circuits & Prods. Containing the Same*, Inv. No. 337-TA-982, Order No. 14, 2016 WL 4426486, at *6 (Aug. 4, 2016) (noting that “the withdrawal of allegations of infringement is not unusual at the Commission despite the amount of time, money, and effort expended by the parties and the Commission during discovery

[and t]he Commission has allowed complainants to withdraw those allegations without a corresponding finding of noninfringement”).

Because MRI “has never accused the [identified products] of infringement under the [asserted] patents then such infringement is not an ‘issue[] to be determined in the investigation.’” *Certain Robotic Vacuum Cleaning Devices*, 2018 WL 1026947 at *3 (citing 19 C.F.R. § 210.18(a)); *see also In the Matter of Certain MEMS Devices & Prods. Containing the Same*, Inv. No. 337-TA-700, 2010 WL 4780032, *4 (July 12, 2010) (“[T]he Respondents are not entitled to summary determination that their non-accused [products] are noninfringing, as that issue is outside the scope of this Investigation and is not a fact relevant to a determination whether Respondents violated Section 337.”); *Certain Integrated Circuits & Prods. Containing the Same*, Inv. No. 337-TA-1272, at *4 (Apr. 4, 2022) (denying summary determination of non-infringement for non-accused products that “are not presently accused, nor are they redesigns of accused products” and “are considered to fall outside the scope of a regular investigation.”).

III. MRI’S RESPONSE TO RESPONDENTS’ STATEMENT OF UNDISPUTED MATERIAL FACTS

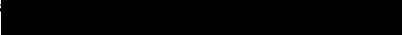
Respondents’ Memorandum supporting their Motion for Summary Determination includes what is styled as a “Statement of Undisputed Material Facts.” *See* Motion¹ at 2-18 (Section II). As a general matter, MRI disputes Respondents’ characterizations of the alleged “undisputed material facts” woven through this section of Respondents’ motion. Many of the alleged undisputed material facts in the section are not facts at all but plainly arguments—all of which MRI disputes. Moreover, many of the alleged “facts” are not material, and those that are


¹ All citations to pages of the Motion refer to the page numbers of the Memorandum of Point and Authorities.

material are disputed. Rather than sift through every fact and argument, MRI responds below to Respondents' contentions pertinent to resolving the Motion.

A. Respondents Admit They Seek Adjudications of Noninfringement That Are Not at Issue in the Investigation

Respondents admit in their motion that "MRI did not chart the OH24B Product against any Asserted Patent in its initial contentions. . . Nor did MRI identify the OH24B Product as an infringing product on a list of alleged infringing products set forth on the cover page of its claim charts . . . MRI's final infringement contentions do not mention the OH24B Product" and "MRI's experts also do not address the OH24B Product." Mot. at 5. It is thus an undisputed fact that MRI has never accused the OH24B Product of infringement under any of the Asserted Patents. Respondents also do not contend that the OH24B Product is a redesigned version of the Accused Products. *See generally*, Motion. Nor could Respondents make such a contention, because MRI has not accused any small displays that are 24 inches or smaller in size.

Respondents further admit in their motion that "[n]one of MRI's infringement contentions mention the OM Products," that "MRI has never alleged that the . . . OM46N, OM55N, OM46B, OM55B, and OM75A Products infringe any of the Asserted Patents," and that these OM products " than the OM46F and OM55F Products," which MRI *has* accused of infringement. Mot. at 9. It is thus an undisputed and material fact that "MRI has never accused [the OM46N, OM55N, OM46B, OM55B, and OM75A Products]² of infringing any Asserted Patent." Respondents do not contend that any of these products are

² On page 1 of its Motion, Samsung defines "OM Products" as OM46B, OM46N, OM55B, OM55N, and OM75A (i.e., as excluding the OM46F and OM55F Products, which share the same cooling system as the accused OH46F and OH55F Products). It should be understood that MRI does accuse OM products of infringement that  as the OH products.

redesigned versions of the Accused Products. *See generally*, Motion. The accused OM46F and OM55F products are accused because—despite the use of OM nomenclature—those products [REDACTED] design with the Accused OH46/55 Products. *See e.g.*, Ex. 10³ at ¶¶ 64-67.

To the extent Respondents appear to argue elsewhere in their Motion that any of these products were somehow accused of infringement by MRI at some point, they were not. *See* Exs. 6, 7, 8, 9, 17 (at 24-26), 18 (at 45-48). MRI also confirms that the “breakdown of MRI’s infringement assertions against the Accused Products” provided on page 15 of Respondents’ Motion accurately identifies the asserted claims the OH46/55 Products are accused of infringing and the asserted claims the OH75/85 Products are accused of infringing.

Thus, as explained below, the adjudications of noninfringement requested by Respondents are improper and unwarranted.

B. Genuine Disputes of Material Facts Exist as to Respondents’ Arguments that Particular Claim Limitations Are Not Met

Although adjudicating noninfringement as requested by Respondents would be inappropriate, to the extent the Administrative Law Judge is inclined to consider and rule on whether the specific claim limitations identified in Respondents’ Motion are met, the Motion also contains numerous inaccuracies regarding the “undisputed” nature of the parties’ positions.

1. The OH24B Product

The Asserted Patents provide cooling systems for large format outdoor displays. As explained by the ’595 patent, the display screens of these large format displays “especially with

³ Unless stated otherwise, numbered exhibits such as Ex. 14 refer to the exhibits to Respondents’ Motion. Lettered exhibits such as Ex. A refer to the exhibits to Complainant’s Response to Respondents’ Motion for Summary Determination.

[REDACTED]

displays *over 24 inches*, face significant thermoregulatory issues in outdoor environments.” ’595 patent at 4:13-15 (emphasis added). MRI has thus only accused displays over 24 inches, which are those displays that require the advanced cooling systems that are the subject of the asserted patents. *See e.g.*, Mot. at 15.

However, rather than address the obvious size disparity between the Accused Products and the much smaller OH24B Product, or the differences in designs between the OH24B Product and the Accused Products, Respondents allege noninfringement based on the same noninfringement arguments disputed by the parties as to the Accused Products.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].”

See Mot. at 5. Your Honor will recognize that Respondents’ assertion of a distinction between [REDACTED] is part of the parties’ claim construction dispute on this term, which has been briefed and was argued at the *Markman* hearing. *See* Complainant MRI’s Opening Claim Construction Brief at 13-20; *see also* Complainant MRI’s Rebuttal Claim Construction Brief at 1-8. The construction of this claim term remains in dispute between the parties and is an issue pertinent to MRI’s allegations that the Accused Samsung OH46/55 Products infringe claim 1 of the ’595 patent. Thus, in the case that Your Honor correctly rejects Respondents’ proposed rewriting of the claim limitation to accommodate the imagined distinction between [REDACTED] then Respondents’ sole noninfringement argument for the OH24B Product would fall.

Moreover, Respondents' contention that the OH24B Product has [REDACTED] is supported only by their expert, Dr. Neikirk's, conclusory testimony that the product [REDACTED] based on a single page of the OH24B user manual. *See* Mot. at 5 citing Ex. 14 at ¶ 198. That page does not show where the fans are located nor has Dr. Neikirk explained where he believes the fans are located and the basis for that conclusion. *See* Ex. 14 at ¶ 198.

Respondents raise the same incorrect claim construction argument regarding [REDACTED] for claim 4 of the '595 patent. Mot. 5. Additionally, for claim 4, Respondents also contend that the OH24B Product [REDACTED] [REDACTED] [REDACTED].” *See* Mot. at 5 citing Ex. 14 at ¶ 199. The cited paragraph of Dr. Neikirk's report, however, summarily concludes from a table in the OH24B training manual that [REDACTED] are used in the product with no further analysis. *See* Ex. 14 at ¶ 199. Even assuming Dr. Neikirk is correct that the OH24B uses [REDACTED], Dr. Neikirk does not explain how there could be [REDACTED], nor does he make any assessment of whether there is [REDACTED]. *Id.* For an analysis, Dr. Neikirk merely states “the OH24B Product does not infringe claim 4 for the same reasons explained above with respect to the Samsung OH46/55 Accused Products.”

Dr. Neikirk's analysis of claim 4 of the '595 patent with respect to the Samsung OH46/55 Accused Products is disclosed in paragraph 145 of his report, where he refers back to “the same reasons explained above for claim 1: ‘a backlight assembly behind the liquid crystal stack’; ‘a

[REDACTED]

constricted convection plate placed behind the posterior surface of the PCB’ . . .” *Id.* at ¶ 145. But claim 1 of the ’595 patent does not have either the “backlight assembly behind the liquid crystal stack” or “a constricted convection plate placed behind the posterior surface of the PCB” limitations. Thus, Dr. Neikirk’s cross reference to his claim 1 analysis effectively means that he has provided no analysis on this issue. Further, MRI’s expert, Mr. Credelle, has explained in great detail how each limitation of claim 1 of the ’595 patent is met by the OH46/55 Products. *See Ex. 10* at ¶¶ 64-83, 89-137. Moreover, when discussing a different claim limitation, Dr. Neikirk, in fact, annotated the CAD files for the OH46B and OH55A-S products and identified [REDACTED] thus further calling into question his unexplained opinions as to claim 4. *See Ex. 14*, ¶¶ 267-268.

The same analysis holds for claim 4 of the ’322 patent, where the same arguments are made by Respondents and Dr. Neikirk. *See Mot.* at 6; *Ex. 14* at ¶ 290-291.

For claim 9 of the ’322 patent, Respondents assert the OH24B Product [REDACTED] [REDACTED] [REDACTED] based on Dr. Neikirk’s examination of a photograph of the product. *Mot.* at 6; *Ex. 14* at ¶ 293. As explained by Mr. Credelle, however, determination of [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]. *See e.g.*, *Ex. 10* at ¶ 146; *see also Ex. 10* at ¶¶ 144-160 (explaining how this limitation is satisfied for the OH46/55 products). No such analysis was done for the OH24B Product by Dr. Neikirk and the relevant details cannot be determined from a photograph. Because the parties’ experts plainly

[REDACTED]

disagree as to the plain and ordinary meaning of the term [REDACTED]

[REDACTED] a determination of noninfringement is not possible until that claim construction issue is resolved. Compare Ex. 10 at ¶¶ 140-160 and Ex. 14, ¶¶ 217-236.

For the '287 patent, Respondents again rely upon a disputed claim construction to assert noninfringement. Respondents assert the [REDACTED]

[REDACTED]

However, MRI's expert, Dr. Pokharna, has explained that the Accused OH46/55 Products, which also use [REDACTED], meet this limitation. *See* Ex. 11 at ¶¶ 195-209. Thus, the mere use of [REDACTED] cannot be a basis for noninfringement for the OH24B Product on summary determination.

2. The OM46N, OM55N, OM46B, OM55B, and OM75A Products

Respondents' alleged "undisputed material facts" supporting their noninfringement arguments for the OM46N, OM55N, OM46B, OM55B, and OM75A Products are similarly objectionable.

For example, Respondents use the same [REDACTED] and [REDACTED] arguments relied upon for the OH24B Product. As explained above, these arguments presume that Respondents will prevail on contested claim constructions.

Additionally, Respondents rely on conclusory expert testimony based on the limited information produced during discovery on these products. For the Accused Products, CAD files were produced by Respondents and relied upon by MRI's experts to assess infringement. *See generally*, Ex. 10 and Ex. 11. CAD files were not provided for the unaccused OM46N, OM55N,

[REDACTED]

OM46B, OM55B, and OM75A Products, preventing a full analysis of these products by either side's experts.

Respondents' arguments that "the OM46N, OM55N, OM46B, OM55B, and OM75A Products" cannot infringe the '595 or '322 patents because [REDACTED] and [REDACTED] are also inconsistent with Respondents' invalidity contentions and expert testimony contending that, for example, the Pump Top Display discloses [REDACTED] [REDACTED] [REDACTED] [REDACTED] See Ex. A at ¶¶ 545-547, 553-554, 989-991 (with annotated Fig. on p. 221 illustrating alleged air flow); Ex. B at 4-9 (same); Ex. C at 4-8 (same).

3. The "Non-Accused Claims" for the Accused Products

Similar issues persist for what Respondents deem the "Non-Accused Claims" for the Accused Products. See Mot. at 15 (identifying separate "Non-Accused Claims" for the OH46/55 and OH75/85 products). To support their arguments, Respondents contend that "Dr. Neikirk soundly identifies various reasons why the "Non-Accused Claims" are not infringed by the relevant products." *Id.* at 15-16. As explained below, however, Dr. Neikirk's opinions are conclusory and rebutted by MRI's experts and the record evidence.

i. The Accused OH46/55 Products

'595 patent, claim 4. For '595 patent, claim 4, Respondents contend the OH46/55 Products do not infringe [REDACTED]

[REDACTED]

[REDACTED] . Mot. at 16 (citing Ex. 14 at ¶¶117, 137, 145). As explained above, paragraph 145 of Dr. Neikirk’s report asserts [REDACTED]

[REDACTED] . Ex. 14 at ¶ 145. Moreover, MRI’s expert, Mr. Credelle, has explained in great detail how each limitation of claim 1 of the ’595 patent is met by the OH46/55 Products. *See* Ex. 10 at ¶¶ 64-83, 89-137. Further, as discussed above, the parties’ claim construction dispute over the ‘a fan [placed/positioned] to draw air [from outside of the housing] through the constricted convection channel’ limitations is ongoing. Accordingly, because Respondents rely on their expert’s non-infringement analysis for claim 1 to claim non-infringement of claim 4, the underlying factual issues are in dispute. Additionally, for dependent claim 8, Respondents argue that [REDACTED]

[REDACTED] Mot. at 16. MRI has provided extensive contentions and expert testimony showing that the OH46/55 Products [REDACTED] under either parties’ proposed construction of the term. *See* Ex. 10 at ¶¶ 103-113; *see also id.* at ¶¶ 64-75.

’322 patent, claim 4. Respondents contend the OH46/55 Products do not infringe claim 4 of the ’322 patent or its dependent claims 5 and 8 for the same reasons as claim 4 for the ’595 patent. *See* Mot. at 16 (citing Ex. 14 at ¶ 272). The cited portion of Dr. Neikirk’s report (¶ 272) refers back to his analysis of claim 1 of the ’595 patent and claim 9 of the ’322 patent. As explained above, MRI’s expert, Mr. Credelle, has explained in great detail how all limitations of claim 1 of the ’595 patent are met by the OH46/55 Products. *See* Ex. 10 at ¶¶ 64-83, 89-137. Mr.

[REDACTED]

Credelle has also explained in great detail how all limitations of claim 9 of the '322 patent are met by the OH46/55 Products. *See* Ex. 10 at ¶¶ 140-177. Accordingly, once again, the underlying factual issues are in dispute.

'142 patent. As to the '142 patent, Respondents' contentions are unsupported by any evidence—only the conclusory statements of its expert. *See* Mot. at 17 (citing Ex. 14 at ¶ 443). There is a claim construction dispute between the parties' experts as to the plain and ordinary meaning of the term "heat exchanger." Ex. F at ¶¶ 259-262. Dr. Neikirk identifies no evidence or reasoning to support his conclusions as to any other limitations of the '142 patent. *See* Ex. 14 at ¶ 443.

ii. The Accused OH75/85 Products

'595 patent, claim 1. For '595 patent, claim 1, Respondents contend the OH75/85 Products [REDACTED] [REDACTED] MRI's expert, Mr. Credelle, has explained how these limitations are met by the OH75/85 Products. *See* Ex. 10 at ¶¶ 267-284. Thus, there is a genuine dispute regarding these limitations.

Mr. Credelle has also explained that the OH75/85 Products include [REDACTED] [REDACTED] *See* Ex. 10 at ¶¶ 285-293. However, [REDACTED] [REDACTED] Ex. 10, ¶¶ 237-243. Thus, it is undisputed that the OH75/85 Products [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

'322 Patent, claims 9, 12, 13 and 16. For '322 Patent, claims 9, 12, 13 and 16,

Respondents contend the OH75/85 Products "[REDACTED]"

[REDACTED]

[REDACTED]

[REDACTED] Mot. at 18. MRI's expert, Mr. Credelle, however, has explained that the OH75/85 Products [REDACTED]. See Ex. 10 at ¶¶ 321-326. Accordingly, once again, the facts Respondents rely upon to prove non-infringement in their Motion are disputed.

Additionally, Respondents' arguments in their Motion are disproven by their internal records and interrogatory responses. In response to MRI's Interrogatory No. 6 asking Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc. to "identify by Bates number all drawings, schematics, design files, block diagrams, and other technical documents that depict or explain any cooling feature or process, or any component related to any cooling feature or process, of the products," (Ex. C at 2 of 9), those Respondents stated they would produce documents "sufficient to show the structure and operation of the Accused Products" (*id.* at 3 of 9) and identified pursuant to Rule 210.29(c), *inter alia*, "SEITC0027582-SEITC0027589" (*id.* at 4-5 of 9).

As shown below, that document (at SEITC0027586) provides the [REDACTED]

[REDACTED]

[REDACTED] for the OH75/85 Products, which demonstrate that a [REDACTED]

[REDACTED] consistent with Mr. Credelle's analysis. See Ex. 10 at ¶¶ 237-243.

[REDACTED]

[REDACTED]

Ex. B (SEITC0027582 at SEITC0027586); *see also* Ex. 10 at ¶¶ 237-243.

'287 Patent. For the '287 Patent, claims 12 and 15, Respondents contend the OH75/85 Products [REDACTED] Mot. at 18 (Citing Ex. 14 at ¶¶ 347-48.) Once again, the relied upon portions of Dr. Neikirk's report are entirely conclusory and unsupported. *See* Ex. 14, ¶¶ 347-48. Further, Dr. Neikirk's conclusion that the OH75/85 Products [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] *See e.g.*, Ex. 14 at ¶¶ 377-381.

In sum, there are genuine disputes of material fact between the Parties as to the noninfringement theories underlying Respondents' Motion.

IV. ARGUMENT

A. Non-Accused OH24B Product

1. Summary Determination of Non-Infringement of the Non-Accused OH24B Product is Not Warranted

Pursuant to the Procedural Schedule in this Investigation (Order No. 7), on December 14, 2022, Complainant MRI served initial contentions accusing the Samsung OH46/55 Products⁴ and Samsung OH75/85 Products of infringing the Asserted Patents. *See e.g.*, Mot. at 5 and Exs. 6, 7 and 17. MRI did not identify the OH24B Product as an infringing product nor did it chart the product in its contentions. *Id.* MRI served final infringement contentions on March 3, 2023, which also did not identify the OH24B Product as an infringing product or chart the product. *See e.g.*, Mot. at 5 and Mot. Exs. 18 at 41-49, 8, and 9. Nor did MRI's experts address the OH24B Product. *See* Mot. at 5, Ex. 10 at ¶¶64, 226, Ex. 11 at ¶ 100. Thus, it is undisputed that "MRI has never accused the OH24B Product of infringing any of the Asserted Patents." Mot. at 5.

Accordingly, because there are not and have never been any active infringement allegations for any Asserted Patent against the OH24B Product, it has been made clear that the OH24B Product is not within the scope of the investigation and thus is not an "issue to be determined in the investigation" pursuant to Commission Rule 210.18. *See, e.g., Certain Robotic Vacuum Cleaning Devices*, 2018 WL 1026947, at *1-2 (finding summary determination inapplicable where infringement of unaccused products "was not going to be addressed in any final initial determination"). Thus, summary determination of non-infringement of the Asserted Patents by the OH24B Product is not warranted. *See, e.g., Certain Polycrystalline Diamond*

⁴ The accused Samsung OH46/55 Products include the Samsung OM46F and OM55F products sharing the same cooling system design.

[REDACTED]

Compacts & Articles Containing Same, Inv. No. 337-TA-1236, Order No. 38, 2021 WL 4262450, at *3 (Sept. 9, 2021) (denying a motion for summary determination of noninfringement and noting that “products which are neither accused of infringement by the complainant nor redesigned by the respondent fall outside the scope of a regular investigation”); *Certain Elec. Devices, Including Streaming Players, Televisions, Set Top Boxes, Remote Controllers, & Components Thereof*, Inv. No. 337-TA-1200, Initial Det., 2021 WL 3185836, at *21 (July 9, 2021) (finding a determination of non-infringement was not proper where the products were not accused or redesigned products).

Respondents rely on *Oligosaccharides* and *Certain Two-Way Radio Equip.* to argue otherwise. However, both of those investigations addressed redesigned versions of accused products. The OH24B Product is not a redesigned version of an accused product, so those decisions are inapposite. Specifically, the Commission only favors “adjudicating redesigns to prevent subsequent and potentially burdensome proceedings that could have been resolved in the first instance in the original Commission investigation” (*Oligosaccharides*, at *11) and to “provid[e] predictability in the enforcement of remedial orders” (*Certain Two-Way Radio Equip.* at 23). But here no efficiency or predictability is provided by adjudicating noninfringement of the OH24B Product where the OH24B product is neither accused nor a redesigned product.

Moreover, in addition to the lack of any benefits, adjudicating noninfringement of the OH24B Product risks creating confusion in the enforcement of remedial orders due to the nature of Respondents’ arguments. Rather than present affirmative evidence of non-infringement based on differences between the OH24B Product and the Accused Products, Respondents seek non-infringement findings on numerous claims based only on its expert’s disputed contentions that the Accused OH46/55 Products do not infringe—rather than any separate analysis of the OH24B

Product. *See* Section III.B.1 *supra*. It is without question that MRI has accused the OH46/55 Products of infringement and that MRI has provided evidence in support of its contentions, so the relied upon non-infringement theories are in dispute. *See id.* The very notion that summary determination could be granted under such circumstances is absurd as it risks inconsistent results that may confuse efforts to enforce any remedial orders that may issue.

Because it is undisputed that MRI has not accused the OH24B Product of infringement, infringement is not an “issue[] to be determined in the investigation” (19 C.F.R. § 210.18(a)) and Respondents’ Motion for Summary Determination as to the OH24B Product should be denied.

2. Even if Non-Infringement of the Non-Accused OH24B Product Were Adjudicated, Genuine Issues of Material Fact Preclude Summary Determination

To the extent noninfringement of the OH24B Product is considered despite the fact it is neither an accused product nor a redesigned accused product, Respondents’ Motion should nevertheless be denied because genuine issues of material fact exist as explained in Section III.B.1 *supra*. As explained above, MRI has not accused the OH24B Product of infringement. The product is too small. However, MRI disputes the alleged bases for noninfringement set forth by Respondents, which have been disputed by its experts Mr. Credelle and Dr. Pokharna. *See id.*

The non-infringement arguments asserted by Respondents’ Motion depend on resolution of express or implied claim construction disputes between the parties thus making summary determination inappropriate. *See Certain Flocked Swabs, Prods. Containing Flocked Swabs, & Methods of Using Same*, Inv. No. 337-TA-1279, Order No. 55 at 9-10 (June 23, 2022) (denying summary determination “[b]ecause there are issues relating to claim construction that are better resolved on a more complete record.”); *Cadence Pharms Inc. v. Exela PharmSci Inc.*, 780 F.3d 1364, 1368 (Fed. Cir. 2015) (recognizing “underlying factual determinations” in claim

[REDACTED]

construction); *Crystal Semiconductor Corp. v. TriTech Microelectronics Intern., Inc.*, 246 F.3d 1336, 1345 (Fed. Cir. 2001) (“[a]pplication of the claim to the accused device is a question of fact”); *Cytologic Corp. v. Ventana Med. Systems, Inc.*, 424 F.3d 1168, 1172 (Fed. Cir. 2005) (no error in construing claims at the close of evidence).

For example, for claims 1 and 4 of the '595 patent, Respondents assert non-infringement on the basis that the OH24B Product [REDACTED]. See Mot. at 5; see also supra Section III.B.1. This is part of an express claim construction dispute that has been fully briefed and argued but not yet resolved. See Complainant MRI's Opening Claim Construction Brief at 13-20; see also Complainant MRI's Rebuttal Claim Construction Brief at 1-8. The proper construction of “a fan [placed/positioned] to draw air [from outside of the housing] through the constricted convection channel” is disputed and has yet to be resolved by the Administrative Law Judge. MRI's expert Mr. Credelle asserts that the plain and ordinary meaning of the term is broad enough to [REDACTED] such as the OH46/55 Products. See Ex. 10, ¶¶ 126-137. Thus, summary determination would be, at best, premature. See *Certain Memory Modules & Components Thereof, & Prods. Containing Same*, Inv. No. 337-TA-1023, Order No. 12 at 12 (April 17, 2017) (finding unresolved claim construction dispute precluded summary determination).

The same situation is present for the [REDACTED] [REDACTED] limitation of the '287 Patent. Respondents assert [REDACTED] [REDACTED] MRI's expert, Dr. Pokharna, has explained that the Accused OH46/55 Products, which also use [REDACTED], meet this limitation when properly construed. See Ex. 11 at ¶¶ 195-209.

[REDACTED]

For other limitations, the parties' claim construction dispute has not yet been briefed or argued. For example, Respondents assert the OH24B Product does not comprise a posterior surface where no electronics are mounted. Although the term "no electronics are mounted to the posterior surface of the electronic display" was not briefed and argued as part of the *Markman* process, the parties' experts plainly disagree as to the plain and ordinary meaning of that term. Compare Ex. 10 at ¶¶ 140-160 and Ex. 14, ¶¶ 217-236. Mr. Credelle's view distinguishes between [REDACTED]—as was common practice for Samsung and others in the industry at the time of the invention (Ex. 10 at ¶¶ 156-159)—and [REDACTED] [REDACTED] (Ex. 10, ¶ 146). In Mr. Credelle's opinion, a product with the latter configuration falls within the scope of the claims whereas a product with [REDACTED] [REDACTED] would not. In contrast, Dr. Neikirk's would find both configurations outside the scope of the claims—even where [REDACTED] [REDACTED]. Ex. 14, ¶¶ 229. Respondents' Motion is premised on their view that if there is [REDACTED] [REDACTED], there are electronics "mounted to the posterior surface of the electronic display." See Ex. 14, ¶ 293 (opining that [REDACTED] [REDACTED] in the OH24B Product based on a photograph showing [REDACTED] [REDACTED]). Respondents do not ask for this claim construction dispute to be resolved in their Motion. Further, as previously noted, a "trial judge has an independent obligation to determine the meaning of the claims, notwithstanding the views asserted by the adversary parties." *Mems Tech. Berhad v. Int'l. Trade Comm'n*, 447 Fed. Appx. 142, 2011 WL 2214091, at *9 (Fed. Cir. June 3, 2011) (*quoting Exxon Chemical Patents, Inc. v.*

[REDACTED]

Lubrizol Corp., 64 F.3d 1553, 1555 (Fed. Cir. 1995)) (internal quotation marks omitted).

Accordingly, the ALJ has denied summary determination under similar circumstances in the past in order to resolve such issues “on a more complete record” after trial. *Certain Flocked Swabs, Prods. Containing Flocked Swabs, & Methods of Using Same*, Inv. No. 337-TA-1279, Order No. 55 at 9-10 (June 23, 2022). MRI thus requests that the same practice be followed here and Respondents’ Motion for Summary Determination be denied due to the unresolved claim construction disputes between the parties.

Because the grounds of non-infringement raised by Respondents as to the ’595, ’322, and ’287 patent are disputed by the parties, Respondents’ motion for summary determination should be denied. Should infringement of the OH24B Product be adjudicated, it should be done on a full record.

B. Non-Accused OM46B, OM46N, OM55B, OM55N, and OM75A Products

1. Summary Determination of Non-Infringement of the Non-Accused OM46B, OM46N, OM55B, OM55N, and OM75A Products is Not Warranted

Similar to Respondents’ request for a substantive finding of non-infringement of the Non-Accused OH24B Product, Respondents also seek a summary determination of non-infringement by the Non-Accused OM46B, OM46N, OM55B, OM55N, and OM75A Products. *See Mot. Ex. 23*. For the reasons discussed above for the Non-Accused OH24B Product (i.e., where no infringement allegations have been made), summary determination of non-infringement is not warranted. *See supra* Section IV.A.i (citing cases).

2. Even if Non-Infringement of the Non-Accused OM46B, OM46N, OM55B, OM55N, and OM75A Products Were Adjudicated, Genuine Issues of Material Fact Preclude Summary Determination

To the extent noninfringement of the OM46B, OM46N, OM55B, OM55N, and OM75A Products is considered despite the fact none are accused products or redesigned accused products, Respondents' Motion should be denied because genuine issues of material fact exist as explained in Section III.B.2 *supra* (explaining the disputes of fact). As explained in Section IV.A.ii *supra*, the parties' disputes involve both express claim construction disputes that have yet to be resolved (such as the dispute over the "draw air" terms) and implicit claim construction disputes, such as the one between Respondents' experts regarding whether [REDACTED] [REDACTED] precludes the '595 and '322 patent claim terms from being satisfied.

C. Summary Determination of Non-Infringement of the Accused OH46/55 and OH75/85 Products as to "Non-Accused Claims" is Not Warranted

Similar to Respondents' request for a substantive finding of non-infringement of the Non-Accused OH24B Product, Respondents also seek a summary determination of non-infringement by the Accused OH46/55 Products and the Accused OH75/85 Products as to certain claims they have not been accused of infringing (Non-Accused Claims). For support, Respondents rely on the same theories under *Oligosaccharides* and *Certain Two-Way Radio Equip.* See Mot. at 25-26.

For the same reasons discussed in Section IV.A.i above for the Non-Accused OH24B Product, summary determination is not warranted as to noninfringement of the Non-Accused Claims by the Accused Products. No efficiency or predictability is provided by adjudicating noninfringement of the Accused Products by claims that have not been asserted against them.

[REDACTED]

Moreover, because of the nature of Respondents' arguments, the requested adjudication risks creating confusion in the enforcement of remedial orders and at the hearing.

1. The Accused OH46/55 Products

As explained in Section III.B.3.i supra, genuine disputes of material fact exist as to the alleged noninfringement arguments for the Accused OH46/55 Products.

'595 patent. For '595 patent, claim 4, Respondents contend the OH46/55 Products [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] Mot. at 16 (citing Ex. 14 at ¶¶117, 137, 145).

At paragraph 137 of his report, Dr. Neikirk asserts the fans of the OH46/55 Products are [REDACTED] As explained above, the parties' claim construction dispute over the 'a fan [placed/positioned] to draw air [from outside of the housing] through the constricted convection channel' limitations is ongoing and precludes summary determination.

At paragraph 145 of his report, Dr. Neikirk asserts these limitations are not met [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] Ex. 14 at ¶ 145. MRI's expert, Mr. Credelle, has explained in detail how each limitation of claim 1 of the '595 patent is met by the OH46/55 Products. See Ex. 10 at ¶¶ 64-83, 89-137. Additionally, the Motion also identifies paragraph 117 of his report, where Dr. Neikirk disputes that Mr. Credelle has correctly identified the posterior

surface of the electronic assembly. Ex. 14, ¶ 117. Thus, Respondents and Dr. Niekirk admit a dispute exists on this issue.

For claim 8 of the '595 patent, Respondents rely solely on the argument that there is no constricted convection plate. *But see* Ex. 10 at ¶¶ 103-113 (explaining the OH46/55 Products have a constricted convection plate under either parties' proposed construction of the term); *see also id.* at ¶¶ 64-75.

Thus, summary determination of noninfringement as to the OH46/55 Products for the '595 Patent would be inappropriate due to the genuine disputes of material fact.

'322 Patent. Respondents contend the OH46/55 Products do not infringe claim 4 of the '322 patent or its dependent claims 5 and 8 for the same reasons as claim 4 for the '595 patent. *See* Mot. at 16 (citing Ex. 14 at ¶ 272). The cited portion of Dr. Neikirk's report (¶ 272) refers back to his analysis of claim 1 of the '595 patent and claim 9 of the '322 patent. As explained above, MRI's expert, Mr. Credelle, has explained in detail how all limitations of claim 1 of the '595 patent are met by the OH46/55 Products. *See* Ex. 10 at ¶¶ 64-83, 89-137. Mr. Credelle has also explained in detail how all limitations of claim 9 of the '322 patent are met by the OH46/55 Products. *See* Ex. 10 at ¶¶ 140-177.

Accordingly, once again, the underlying factual issues are in dispute, so summary determination of noninfringement as to the OH46/55 Products for the '322 Patent would be inappropriate.

'142 patent. As to the '142 patent, Respondents' contentions are unsupported by any evidence—only the conclusory statements of its expert. *See* Mot. at 17 (citing Ex. 14 at ¶ 443). Dr. Neikirk identifies no evidence or reasoning to support his conclusions as to any limitations of the '142 patent other than the lack of heat exchangers. *See* Ex. 14 at ¶ 443. But the parties'

[REDACTED]

experts hold differing views regarding the plain and ordinary meaning of the term “heat exchanger.” Ex. F at ¶¶ 259-262. Thus, summary determination of noninfringement as to the OH46/55 Products for the ’740 Patent could only be premised upon the lack of heat exchangers and the ALJ would be implicitly construing that term as excluding any device in the OH46/55 Products without the benefit of a complete record.

Thus, MRI requests that Your Honor deny Respondents’ Motion as to the Accused OH46/55 Products.

2. The Accused OH75/85 Products

As explained in Section III.B.3.ii supra, genuine disputes of material fact exist as to the alleged noninfringement arguments for the Accused OH75/85 Products.

’595 patent. For ’595 patent, claim 1, Respondents contend the OH75/85 Products do not

[REDACTED]

[REDACTED] MRI’s expert, Mr. Credelle, has explained how these limitations are met by the OH75/85 Products. *See* Ex. 10 at ¶¶ 267-284. Thus, there is a genuine dispute regarding these limitations.

Mr. Credelle has also explained that the OH75/85 Products include [REDACTED]

[REDACTED] as required by claim 4 of the ’595 patent.

See Ex. 10 at ¶¶ 285-293. However, [REDACTED]

[REDACTED]

[REDACTED] Ex. 10, ¶¶ 237-243. MRI’s position is that the

OH75/85 Products [REDACTED]

[REDACTED]

[REDACTED]. However, Respondents’ expert, Dr. Neikirk, elsewhere in his report asserts that the

[REDACTED], as explained below. *See* Ex. 14 at ¶¶ 377-381. Accordingly, there is a factual dispute between the parties. Once again, due to the contradictory nature of Respondents' expert testimony and positions, Respondents' noninfringement positions cannot be resolved without the benefit of a complete record. To resolve them prematurely on summary determination would only serve to create confusion.

'322 Patent. For '322 Patent, claims 9, 12, 13 and 16, Respondents contend the OH75/85 Products [REDACTED] [REDACTED] Mot. at 18. MRI's expert, Mr. Credelle, however, has explained that the OH75/85 Products have a [REDACTED] with respect to claim 4 of the '595 patent. *See* Ex. 10 at ¶¶ 321-326. Accordingly, once again, the facts Respondents rely upon to prove noninfringement in their Motion are disputed both by Mr. Credelle as well as Respondents' interrogatory responses and internal records. *See supra* Section III.B.3.ii (citing Ex. C at 2-5 and SEITC0027582).

'287 Patent. For the '287 Patent, claims 12 and 15, Respondents contend the OH75/85 Products [REDACTED] Mot. at 18 (Citing Ex. 14 at ¶¶ 347-48.) Once again, the relied upon portions of Dr. Neikirk's report are entirely conclusory and unsupported. *See* Ex. 14, ¶¶ 347-48. Further, Dr. Neikirk's conclusion that the OH75/85 Products [REDACTED] [REDACTED] (Ex. 11, ¶¶ 295-301), [REDACTED] (Ex. 11, ¶ 300) [REDACTED]. *See e.g.*, Ex. 14 at ¶¶ 377-381.

Accordingly, at best, the record is not clear with regards to the alleged noninfringement of the OH75/85 Products by the Non-Accused Claims, and summary determination should be denied on that basis.

V. CONCLUSION

MRI respectfully requests that the ALJ deny Respondents' Motion for Summary Determination for the reasons stated above. While the Commission promotes adjudication, where appropriate, of redesigned accused products, Respondents' Motion epitomizes the reasons why adjudication of non-accused products is not promoted. Respondents' Motion invites premature rulings without the benefit of a complete record that would serve only to create confusion during both trial and the enforcement of any remedial orders that issue from this investigation.

Dated: May 8, 2023

Respectfully Submitted,

/s/ Aarti Shah

Aarti Shah
KILPATRICK TOWNSEND & STOCKTON LLP
607 14th Street, NW, Suite 900
Washington, DC 20005
Telephone: (202) 508-5800
MRI-Samsung@kilpatricktownsend.com

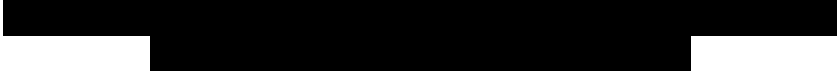
Dario A. Machleidt
Kathleen R. Geyer
KILPATRICK TOWNSEND & STOCKTON LLP
1420 Fifth Ave., Suite 3700
Seattle, WA 98101
Telephone: (206) 467-9600
MRI-Samsung@kilpatricktownsend.com

Russell A. Korn
David A. Reed
KILPATRICK TOWNSEND & STOCKTON LLP
1100 Peachtree Street NE, Suite 2800
Atlanta, GA 30309
Telephone: (404) 815-6500
MRI-Samsung@kilpatricktownsend.com

Craig D. Cannon
Alton L. Absher, III
Andrea A. Anderson
Jonathan E. Harris
KILPATRICK TOWNSEND & STOCKTON LLP
1001 West Fourth Street
Winston-Salem, NC 27101
Telephone: (336) 607-7300
MRI-Samsung@kilpatricktownsend.com

Matthew J. Meyer
KILPATRICK TOWNSEND & STOCKTON LLP
1080 Marsh Road
Menlo Park, CA 94025
Telephone: (650) 326-2400
MRI-Samsung@kilpatricktownsend.com

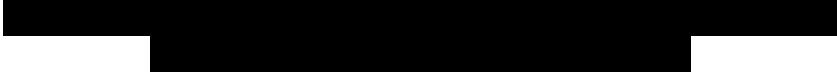
*Counsel for Complainant Manufacturing Resources
International, Inc.*



CERTIFICATE OF SERVICE

I, Pamela A. Freitk, hereby certify that the attached document has been served upon the following parties as indicated below on May 8, 2023.

<p>The Honorable Lisa R. Barton Secretary to the Commission U.S. International Trade Commission 500 E Street SW, Room 112-A Washington, DC 20436</p>	<p><input checked="" type="checkbox"/> Via EDIS <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Via Express Delivery <input type="checkbox"/> Via Hand Delivery</p>
<p>The Honorable Monica Bhattacharyya Administrative Law Judge U.S. International Trade Commission 500 E Street SW, Room 317 Washington, DC 20436</p>	<p><input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Via Express Delivery <input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Via Electronic Mail at Bhattacharyya337@usitc.gov</p>
<p>Patrick J. McCarthy Goodwin Procter LLP 1900 N Street, N.W. Washington, D.C. 20036</p> <p>Darryl M. Woo Goodwin Procter LLP Three Embarcadero Center San Francisco, CA 94111-4003</p> <p>Yoona Lee Elizabeth J. Low Goodwin Procter LLP 601 Marshall St. Redwood City, CA 94063</p> <p>Srikanth K Reddy Douglas J. Kline Christie L. Larochele Harrison Gunn Kara Grogan Goodwin Procter LLP 100 Northern Avenue Boston, MA 02210</p>	<p><input type="checkbox"/> Via FedEx <input type="checkbox"/> Via International Express Delivery <input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Via Electronic Mail at DG-Samsung-MRI@goodwinlaw.com</p>



<p>Naomi L. Birbach, Goodwin Procter LLP The New York Times Building 620 Eighth Avenue New York, New York 10018-1405</p> <p><i>Counsel for Respondents</i></p>	
--	--

/s/ Pamela A. Freitik

Pamela A. Freitik

CERTIFICATE OF SERVICE

I, Bruce Nelson, hereby certify that the attached document has been served upon the following parties as indicated below on May 15, 2023.

<p>The Honorable Lisa R. Barton Secretary to the Commission U.S. International Trade Commission 500 E Street SW, Room 112-A Washington, DC 20436</p>	<p><input checked="" type="checkbox"/> Via EDIS <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Via Express Delivery <input type="checkbox"/> Via Hand Delivery</p>
<p>The Honorable Monica Bhattacharyya Administrative Law Judge U.S. International Trade Commission 500 E Street SW, Room 317 Washington, DC 20436</p>	<p><input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Via Express Delivery <input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Via Electronic Mail at Bhattacharyya337@usitc.gov</p>
<p>Patrick J. McCarthy Goodwin Procter LLP 1900 N Street, N.W. Washington, D.C. 20036</p> <p>Darryl M. Woo Goodwin Procter LLP Three Embarcadero Center San Francisco, CA 94111-4003</p> <p>Yoona Lee Elizabeth J. Low Goodwin Procter LLP 601 Marshall St. Redwood City, CA 94063</p> <p>Srikanth K Reddy Douglas J. Kline Christie L. Laroche Harrison Gunn Kara Grogan Goodwin Procter LLP 100 Northern Avenue Boston, MA 02210</p>	<p><input type="checkbox"/> Via FedEx <input type="checkbox"/> Via International Express Delivery <input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Via Electronic Mail at DG-Samsung-MRI@goodwinlaw.com</p>

Naomi L. Birbach, Goodwin Procter LLP The New York Times Building 620 Eighth Avenue New York, New York 10018-1405 <i>Counsel for Respondents</i>	
---	--

/s/ Bruce Nelson
Bruce Nelson