

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

CERTAIN ACTIVE MATRIX
ORGANIC LIGHT-EMITTING DIODE
DISPLAY PANELS AND MODULES
FOR MOBILE DEVICES, AND
COMPONENTS THEREOF

Inv. No. 337-TA-1351

**ORDER NO. 44: INITIAL DETERMINATION GRANTING RESPONDENTS'
MOTION FOR SUMMARY DETERMINATION OF LACK OF
STANDING**

(January 9, 2024)

On November 15, 2023, Respondents Mianyang BOE Optoelectronic Technology Co., Ltd., Injured Gadgets, LLC, Parts4LCD, Phone LCD Parts LLC, and Wholesale Gadget Parts, Inc. (collectively, "Respondents") moved (1351-014) for summary determination that Complainant Samsung Display Co., Ltd. ("Samsung Display" or "SDC") lacks standing to bring and maintain this investigation. On November 27, 2023, Samsung Display opposed the motion. *See* EDIS Doc. ID 809326 ("Opp.").¹ The Commission Investigative Staff ("Staff") filed a response in support of the motion. EDIS Doc. ID 809338 ("Staff Resp.").

In its complaint, [REDACTED]

[REDACTED]

[REDACTED] Nine days before the close of fact discovery, Samsung Display disclosed [REDACTED]

¹ I note that Samsung Display's opposition violates my Ground Rules. Ground Rule 5.4.2.2 limits responses to motions for summary determination to 25 pages. Although Samsung Display's motion is 25 pages, Samsung Display uses single-spaced font for portions of its response in violation of Ground Rule 1.2. *See* Opp. at 5-8.

[REDACTED]

[REDACTED]

[REDACTED]²

Respondents brought this issue to my attention via a letter pursuant to Ground Rule 5.4.1.1. I held a case management conference on October 5, 2023, during which Samsung Display represented [REDACTED]

[REDACTED] I ordered the parties to submit briefs on the issue of standing and further ordered Samsung Display to provide additional discovery. *Id.* at 34:20-39:11. In its brief on standing, Mianyang BOE stated that it was awaiting additional discovery but that “[o]nce that discovery is produced, Mianyang BOE will review it and consider next steps in terms of how best to present the issue to the ALJ for resolution.” EDIS Doc. ID 806420 at 15. I therefore directed Respondents to identify the next steps on the standing issue. Order No. 33 (Oct. 24, 2023). After receiving the parties’ responses, I informed the parties that this issue was best addressed through a motion for summary determination.

In its motion, Respondents assert that Samsung Display [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Respondents therefore argue that Samsung Display cannot meet its burden to prove standing and the Investigation should be terminated. *Id.* at 25.

Samsung Display asserts that the evidence shows that [REDACTED]

[REDACTED]

² The Asserted Patents are U.S. Patent No. 7,414,599, U.S. Patent No. 9,330,593, U.S. Patent No. 9,818,803, U.S. Patent No. 10,854,683, and U.S. Patent No. 11,594,578.

[REDACTED] Samsung Display also argues that Respondents' legal argument must fail. It concludes that "it would be plain legal error to extend [the Federal Circuit's] holding [in *WiAV Solutions LLC v. Motorola, Inc.*, 631 F.3d 1257 (Fed. Cir. 2010)] about a special restriction on standing of exclusive licensees to apply to patentees." *Id.* at 22.

Staff supports Respondents' motion. Staff Resp. at 2. Staff asserts that the evidence demonstrates that [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

I. LEGAL PRINCIPLES

Summary determination is appropriate when there is no genuine issue as to any material fact and the moving party is entitled to a determination as a matter of law. *See* 19 C.F.R. § 210.18. "The determination sought by the moving party shall be rendered if pleadings and any depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, 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." *Id.* at § 210.18(b). In determining whether there is a genuine issue of material fact, "the evidence must be viewed in the light most favorable to the party opposing the motion with doubts resolved in favor of the nonmovant." *Crown Operations Int'l, Ltd. v. Solutia, Inc.*, 289 F.3d 1367, 1374 (Fed. Cir. 2002) (citations omitted).

Commission Rule 210.12 requires that intellectual property-based complaints "include a showing that at least one complainant is the owner or exclusive licensee of the subject intellectual property." 19 C.F.R. § 210.12(a)(7). In applying this rule, the Commission has adopted the

PUBLIC VERSION

standing requirement established by the federal courts in patent infringement cases. *See SiRF Tech., Inc. v. Int'l Trade Comm'n*, 601 F.3d 1319, 1326 n.4 (Fed. Cir. 2010) (noting the Commission strictly reads the federal standing precedent into its rules of procedure); *Certain Optical Drives, Components Thereof, and Products Containing the Same*, Inv. No. 337-TA-897, Comm'n Op. at 4, EDIS Doc. No. 548902 (Dec. 4, 2014) (public version Jan. 7, 2015) (“*Optical Drives*”); *see also Certain Audio Processing Hardware, Software, & Prods. Containing the Same*, Inv. No. 337-TA-1026, Comm'n Op. at 9 n. 6 (Apr. 18, 2018) (“*Audio Processing*”) (“Although the Commission is not part of the judicial branch . . . the Commission has applied the standing requirement established by courts in patent infringement cases in determining compliance with Commission Rule 21.12(a)(7).” Complainants bringing an action under 19 U.S.C. § 1337(a)(1)(B) based on patent infringement must therefore show that they have constitutional standing to assert patent rights. *Optical Drives*, Comm'n Op. at 4.

Constitutional standing requires that a plaintiff (1) suffer an injury in fact, (2) show a proximate causal connection between the injury and the defendant's conduct and (3) show that the injury would be redressable by a favorable court decision.” *Audio Processing*, Comm'n Op. at 9. “In causes of action involving patent infringement, the Patent Act is the source of these legally protected interests.” *Id.*

The Supreme Court has explained that “a statutory cause of action extends only to plaintiffs whose interests ‘fall within the zone of interests protected by the law invoked.’” *Lexmark*, 572 U.S. 118 at 129 (citations omitted). In the scheme the Commission has adopted from the federal courts, the relevant statute for this analysis is the Patent Act, which grants exclusive rights to a patentee. *See* 35 U.S.C. §§ 154(a)(1), 281; *Optical Drives*, Comm'n Op. at 4–5. The Patent Act requires that a complaint of patent infringement “be brought by a party holding legal title to the

patent.” *Abbott Labs. v. Diamedix Corp.*, 47 F.3d 1128, 1130 (Fed. Cir. 1995); *see also Ball v. Coker*, 168 F. 304, 307 (D.S.C. 1909) (“[N]o person may bring suit for profits or damages for infringement who is not the patentee, or such assignee or grantee as the statute points out.”). Complainant bears the burden of establishing standing. *See Sicom Sys., Ltd. v. Agilent Techs., Inc.*, 427 F.3d 971, 976 (Fed. Cir. 2005) (stating that the party bringing suit has the burden of establishing that it has standing).

II. FACTUAL BACKGROUND

A. Overview

In its response, Staff notes: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] For the reasons set forth below, I also reach this conclusion.

Samsung Display asserts that there is a dispute of material fact as to [REDACTED]

[REDACTED]

[REDACTED] It is Samsung Display’s burden to prove standing. *Sicom*, 427 F.3d at 976. As explained in more detail below, Samsung Display is unable to meet this burden. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.