

NOTE: This disposition is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

SONOS, INC.,
Appellant

v.

INTERNATIONAL TRADE COMMISSION,
Appellee

GOOGLE LLC,
Intervenor

GOOGLE LLC,
Appellant

v.

INTERNATIONAL TRADE COMMISSION,
Appellee

SONOS, INC.,
Intervenor

2022-1421, 2022-1573

Appeals from the United States International Trade
Commission in Investigation No. 337-TA-1191.

Decided: April 8, 2024

E. JOSHUA ROSENKRANZ, Orrick, Herrington & Sutcliffe LLP, New York, NY, argued for appellant. Also represented by ALEXANDRA BURSAK, EDMUND HIRSCHFELD; ALYSSA MARGARET CARIDIS, Los Angeles, CA; ABIGAIL COLELLA, JORDAN COYLE, MARK S. DAVIES, ROBERT MANHAS, Washington, DC; BAS de BLANK, Menlo Park, CA; CLEMENT ROBERTS, San Francisco, CA; GEORGE I. LEE, COLE BRADLEY RICHTER, RORY PATRICK SHEA, JOHN DAN SMITH, III, SEAN MICHAEL SULLIVAN, Lee Sullivan Shea & Smith LLP, Chicago, IL.

DAN L. BAGATELL, Perkins Coie LLP, Hanover, NH, argued for cross-appellant. Also represented by ANDREW DUFRESNE, Madison, WI; NATHAN K. KELLEY, JONATHAN IRVIN TIETZ, Washington, DC; TARA LAUREN KURTIS, Chicago, IL; THERESA H. NGUYEN, Seattle, WA; JEFFREY NARDINELLI, SEAN S. PAK, CHARLES KRAMER VERHOEVEN, OGNJEN ZIVOJNOVIC, Quinn Emanuel Urquhart & Sullivan, LLP, San Francisco, CA; JARED WESTON NEWTON, Washington, DC; LANCE YANG, Los Angeles, CA.

RICHARD P. HADORN, Office of the General Counsel, United States International Trade Commission, Washington, DC, argued for appellee. Also represented by WAYNE W. HERRINGTON.

Before DYK, REYNA, and STARK, *Circuit Judges*.

STARK, *Circuit Judge*.

Sonos, Inc. (“Sonos”) filed a complaint at the International Trade Commission (“Commission”) alleging that Google LLC (“Google”) was violating Section 337 of the

Tariff Act of 1930, 19 U.S.C. § 1337, by importing audio players and controllers that infringed five of Sonos' patents: U.S. Patent Nos. 10,439,896 ("896 patent"), 9,195,258 ("258 patent"), 9,219,959 ("959 patent"), 10,209,953 ("953 patent"), and 8,588,949 ("949 patent"). The Commission instituted an investigation and ultimately issued a final determination, holding that certain originally-accused products infringed each of the asserted patents. The final determination also held, however, that certain non-infringing alternatives ("NIAs" or "redesigns") proposed by Google did not infringe any of the claims of the Sonos patents. Sonos timely appealed the Commission's findings of non-infringement by the redesigns, and Google cross-appealed the Commission's findings of infringement by the originally-accused products. We affirm.

I

On January 7, 2020, Sonos filed a complaint with the Commission, alleging violations of Section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain audio players and controllers, components thereof, and products containing the same. On February 11, 2020, the Commission instituted an investigation based on Sonos' complaint, to determine:

whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products . . . by reason of infringement of one or more of claims 17, 21-24, and 26 of the '258 patent; claims 7, 12-14, and 22-24 of the '953 patent; claims 1, 2, 4, and 5 of the '949 patent; claims 5, 9, 10, 29, and 35 of the '959 patent; and claims 1, 3, 5, 6, and 12 of the '896 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337[.]

85 Fed. Reg. 7783 (Feb. 11, 2020). The Commission named Alphabet Inc. and Google as respondents, although Alphabet Inc. was later terminated from the investigation. The Commission's Office of Unfair Import Investigations was also named as a party.

On March 12, 2021, the Commission partially terminated the investigation after Sonos withdrew allegations of infringement as to certain claims in each of the asserted patents. The remaining patents and claims at issue at the time of the Commission's evidentiary hearing were as follows:

Asserted Patent	Remaining Asserted Claim(s)
'258 patent	17, 21, 24, and 26
'953 patent	7, 14, and 22-24
'959 patent	10
'949 patent	1, 2, 4, and 5
'896 patent	1, 5, 6, and 12

J.A. 4.

After the evidentiary hearing, the chief administrative law judge ("CALJ") made an initial determination that each of the asserted patents was infringed by one or more of the originally-accused Google products. The CALJ also found, however, that redesigns of each of these products avoided infringement and were, hence, NIAs. J.A. 58-255. The Commission declined the parties' petitions for review of the initial determination and issued a final determination adopting the CALJ's determination while also providing "supplemental reasoning" as to how Google's originally-

accused products infringed the '258 and '953 patents.¹ J.A. 2, 18-22. The Commission then entered a limited exclusion order, “precluding the importation of audio players and controllers . . . that infringe one or more of [Sonos’] claims.” J.A. 23; *see also* J.A. 37-40.

Sonos appealed the Commission’s final determination finding non-infringement of the '896 patent, '258 patent, and '959 patent by Google’s redesigns that were labelled '896 NIA 2, '258 NIA 1, and '959 NIA 4, respectively. Google cross-appealed the Commission’s final determination that found infringement of each of the asserted patents by certain of the originally-accused products. We have jurisdiction under 28 U.S.C. § 1295(a)(6).

II

We review the Commission’s legal determinations de novo and its factual findings for substantial evidence. *See Guangdong Alison Hi-Tech Co. v. Int’l Trade Comm’n*, 936 F.3d 1353, 1358 (Fed. Cir. 2019). In particular, the “[d]etermination of the meaning and scope of patent claims” is a matter of law reviewed de novo (when based entirely on intrinsic evidence) and “[i]nfringement of correctly construed claims” is “a question of fact” reviewed for substantial evidence. *Kinik Co. v. Int’l Trade Comm’n*, 362 F.3d 1359, 1361 (Fed. Cir. 2004). Substantial evidence “means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” *Consol. Edison Co. v. N.L.R.B.*, 305 U.S. 197, 229 (1938). “[W]here two different, inconsistent conclusions may reasonably be drawn from the evidence in record, an agency’s decision to

¹ Because the Commission adopted the CALJ’s initial determination in full, we do not distinguish between the findings in the CALJ’s initial determination and the findings in the Commission’s final determination. We treat both as the findings of the Commission.

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