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ITC To Probe Honda Imports After Noninfringement Ruling

By **Kevin Penton**

Law360 (February 25, 2019, 3:43 PM EST) -- The U.S. International Trade Commission will review an administrative law judge's determination that motor products imported and sold in the United States by Honda, Toyota and other companies do not infringe the asserted claims of two Intellectual Ventures patents covering thermoplastic parts, the agency announced Monday.

The ITC will review Administrative Law Judge Thomas B. Pender's final initial determination in November that Intellectual Ventures II LLC failed to establish that Toyota Motor Corp., Honda Motor Co. Ltd., Aisin Seiki Co. and numerous related companies infringe the patents, according to Monday's notice in the Federal Register.

The commission will also review the judge's determination that the respondent companies failed to establish that any of the asserted claims of the patents, which cover methods for encapsulating electric motors in thermoplastic, are obvious, according to the notice.

As it reviews the judge's determination, the ITC is particularly curious about matters such as whether certain specifications of at least one of the patents should be construed as defining the term "non-linear" and how the allegedly infringing products encapsulate a conductor, according to the commission's notice.

Intellectual Ventures filed its complaint against the companies in September 2017, urging the ITC to issue limited exclusion and cease-and-desist orders barring the entry of the allegedly infringing parts into the United States, according to commission documents.

The investigation originally included companies such as BMW of North America LLC and Denso Corp. as respondents, but the ITC nixed the entities from the probe, along with three other patents, after Intellectual Ventures moved at various points throughout 2018 to terminate their involvement.

James Wodarski, an attorney representing Intellectual Ventures, declined to comment on Monday.

Counsel for the other parties could not be reached for comment on Monday.

The patents-in-suit are U.S. Patent Numbers 7,683,509 and 7,928,348.

Intellectual Ventures is represented by James Wodarski, Brad M. Scheller, Aarti Shah, Michael T. Renaud, Andrew H. DeVoogd, Nicholas W. Armington and Serge Subach of Mintz Levin Cohn Ferris Glovsky and Popeo PC.

Toyota is represented by James R. Barney, Thomas W. Winland, Smith R. Brittingham IV, William H. Pratt, Mareesa A. Frederick and Anthony D. Del Monaco of Finnegan Henderson Farabow Garrett & Dunner LLP, and Mark Reiter, Eric T. Syu, Alison Watkins and Veronica S. Lewis of Gibson Dunn & Crutcher LLP.

Aisin is represented by Eric W. Schweibenz, Robert C. Mattson, John S. Kern, John F. Presper and Alexander B. Englehart of Oblon McClelland Maier & Neustadt LLP.

Honda is represented by Matthew J. Moore, Bob Steinberg, Michael A. David, Bert C. Reiser and Adam M. Greenfield of Latham & Watkins LLP, and Ahmed J. Davis, John T. Johnson, Thomas S. Fusco, Michael J. Ballanco, Michael F. Autuoro and Jeffrey Mok of Fish & Richardson PC.

The investigation is In the Matter of Certain Thermoplastic-Encapsulated Electric Motors, Components thereof, and Products and Vehicles Containing Same II, investigation number 337-TA-1073, in the U.S. International Trade Commission.

--Editing by Jack Karp.

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