

Honda, Toyota Imports Cleared In ITC Infringement Review

By **Hailey Konnath**

Law360 (July 24, 2019, 11:08 PM EDT) -- The U.S. International Trade Commission has cleared automakers Honda and Toyota and auto parts manufacturer Aisin of allegations they violated federal import trade law, ending the commission's review of an administrative law judge's determination reaching the same conclusion.

Intellectual Ventures II LLC had alleged Toyota Motor Corp., Honda Motor Co. Ltd., Aisin Seiki Co. and a handful of related companies violated its patents covering methods for encapsulating electric motors in thermoplastic, according to the ITC. Last November, administrative Law Judge Thomas B. Pender found Intellectual Ventures had failed to establish a violation of the law. In February, the ITC agreed to review the finding.

Now, the ITC has agreed with Judge Pender's determination, finding Intellectual Ventures "failed to satisfy the domestic industry requirement" needed to prove violations of federal import trade law, according to Wednesday's notice in the Federal Register. The full opinion wasn't immediately available Wednesday.

"Accordingly, the commission has determined to terminate the investigation with a finding of no violation," the ITC said.

Intellectual Ventures filed its complaint against the automakers and auto part manufacturer in September 2017, asking the ITC to issue limited exclusion and cease-and-desist orders barring the entry of the allegedly infringing parts into the country, according to the ITC.

Initially, the complaint also named BMW of North America LLC and Denso Corp. as respondents, but they were later cut loose from the probe. Three other patents were also nixed, per Intellectual Ventures' request.

Representatives with the automakers didn't immediately return requests for comment late Wednesday.

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 & 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, Bert C. Reiser, Bob Steinberg, Jennifer L. Giordano, Adam M. Greenfield, Lisa K. Nguyen, and Michael A. David 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.

--Additional reporting by Kevin Penton. Editing by Jay Jackson Jr.

Update: This story has been updated to include additional counsel for Honda to clarify that the ITC made a determination on whether Intellectual Ventures' claims met the domestic industry requirement, not on the infringement allegations themselves.

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