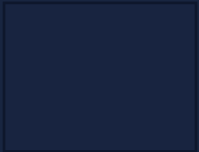




ITC Exclusion Orders

December 2023



Questions we will address:

1. How does an ITC exclusion order compare to an injunction in district court?
2. How do exclusion orders in trade secret matters differ from those in patent matters?
3. How are design-around products treated under exclusion orders?
4. What effect do PTAB decisions have on exclusion orders?



Exclusion Order Scope

Comparison with district court injunction

In the Matter of

**CERTAIN VARIABLE SPEED WIND
TURBINE GENERATORS AND
COMPONENTS THEREOF**

Accordingly, the Commission hereby **ORDERS** that:

1. Variable speed wind turbine generators and components thereof covered by one or more of claims 29, 30, 33-35, and 37 of the '985 patent, that are manufactured abroad by or on behalf of, or are imported by or on behalf of Respondents, or any of their affiliated companies, parents, subsidiaries, or other related business entities, or its successors or assigns ("covered articles"), are excluded from entry for consumption into the United States, entry for consumption from a foreign-trade zone, or withdrawal from a warehouse for consumption, for the remaining term of each patent, except under license of the patent owner or as provided by law.

Permanent Injunction Language

its subsidiaries, agents, servants, employees, counsel, and all persons and entities acting in concert therewith (the "Enjoined Parties") are hereby permanently enjoined for the life of the '413 Patent (through June 12, 2034) from making, using, offering for sale, selling, importing (into), or installing in the United States (including on or attached to the Outer Continental Shelf):

- a. the adjudged infringing Haliade-X wind turbines, and
- b. any wind turbines that are substantially similar to and/or not more than colorably different from the adjudged infringing Haliade-X wind turbines with respect to those elements proven to satisfy the limitations of claims 1, 2, 8 and 11 of the '413 Patent.

Exclusion Order Scope

Trade secrets

1159 – Lithium Ion Batteries

as amended (19 U.S.C. § 1337(h)), and Commission Rule 210.33 (19 C.F.R. § 210.33). The Commission has thereby determined that there is a violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, in the unlawful importation into the United States or in the sale by Respondents of lithium-ion batteries, battery cells, battery modules, battery packs, components thereof, and processes therefor, manufactured by or on behalf of Respondents using one or more of the misappropriated trade secrets identified in Complainants' final election of disclosed trade secrets (Jan. 22, 2020) ("LG Trade Secrets").¹ The LG Trade Secrets are the following 22 trade secrets (including subparts) in Complainants' Final Trade Secret Disclosure (Oct. 7, 2019): 2, 8, 31, 33, 60, 66, 80, 81, 84, 94, 95, 96, 97, 117, 119, 124, 138, 139, 144, 145, 146, and 147.

Lithium-ion batteries, battery cells, battery modules, battery packs, and components thereof ("covered articles") that use any of the LG Trade Secrets and that are manufactured abroad by or on behalf of, or imported by or on behalf of, Respondents, or their affiliated companies, parents, subsidiaries, agents, or other related business entities, or their successors or assigns, are excluded from entry for consumption into the United States, entry for consumption from a foreign trade zone, entry into a bonded warehouse or foreign trade zone, or withdrawal from a warehouse for consumption for 10 years from the date of issuance of this Order, except under license from, or with the permission of, the trade secret owner or as provided by law.