

## ITC OKs Exclusion Order Against Chinese Warehouse Robots

By **Matthew Santoni**

*Law360 (August 1, 2023, 9:30 PM EDT)* -- A Chinese robotics company and its Pennsylvania-based importer can no longer sell a number of warehouse automation products that infringe two patents held by a New Jersey company, according to orders issued by the U.S. International Trade Commission.

The ITC on Monday issued a limited exclusion order against Hangzhou, China-based HC Robotics and Conshohocken, Pennsylvania-based Invata LLC, barring them from U.S. imports or sales of automated "put walls" — shelves of containers for sorting and picking inventory — storage and retrieval systems, vehicles, software and other components the commission determined to have violated patents held by Moorestown, New Jersey-based Opex Corp.

"The commission has determined that the appropriate remedies are a limited exclusion order and cease and desist orders against each of respondents," the ITC's order said. "The commission has also determined to set a bond in the amount of 100 percent of the entered value of the excluded articles imported during the period of presidential review. This investigation is hereby terminated."

Monday's order affirmed an initial determination and recommendation from Chief Administrative Law Judge Clark Cheney, who sided with Opex in the patent dispute in March.

According to the ITC's order, Opex initially filed a complaint about HC's "OmniSort" product line, which spurred a commission investigation in January 2022. The complaint initially dealt with four Opex patents, used in Opex's Sure Sort and Perfect Pick product lines, that HC and Invata were allegedly infringing with their imported products.

Opex had also filed lawsuits in Pennsylvania federal court against HC and Invata in 2021 over two patents that were being investigated by the ITC and two that weren't. At the defendants' request, the court stayed that case pending the outcome of the ITC complaint and investigation of the patents that were before the commission, according to court records.

The parties reached a deal to drop the "OmniSort Generation 1" products from the case in September, and the commission ended its investigations into two of the patents and trimmed out some of the claims related to the other two in October, the order noted.

In March, Judge Cheney's initial determination said Opex had standing to assert the remaining claims on the two patents, all the asserted claims were valid and the asserted claims Opex had highlighted were infringed by HC and Invata.

After reviewing the judge's recommendations and taking briefs from the parties in June, the ITC agreed with Opex and the judge.

"We were happy to see the commission agree with Chief Administrative Law Judge Cheney in ruling for our client, Opex Corporation, on all issues," Goutam Patnaik of Desmarais LLP, representing Opex, told Law360 Tuesday. "This case is a great example of how useful the ITC can be for companies like Opex when faced with infringing imports. The remedies ordered by the commission, in conjunction with the consent order previously entered by the respondents, will be valuable protection for Opex going forward."

Counsel for HC and Invata did not immediately respond to requests for comment.

The patents-in-suit are U.S. Patent Nos. 8,622,194 and 10,576,505.

Opex is represented by Paul Bondor, Goutam Patnaik, David J. Shaw, Tuhin Ganguly and Jonathan V. Lewis of Desmarais LLP.

Invata and HC Robotics are represented by P. Andrew Riley, Lei Mei. Robert A. Hall, Guang-Yu Zhu and Jiwei Zhang of Mei & Mark LLP.

The case is Certain Automated Put Walls and Automated Storage and Retrieval Systems, Associated Vehicles, Associated Control Software, and Component Parts Thereof, investigation number 337-TA-1293, before the U.S. International Trade Commission.

--Additional reporting by Andrew Karpan. Editing by Caitlin Wolper.