

**PUBLIC VERSION**

**UNITED STATES INTERNATIONAL TRADE COMMISSION**

**Washington, D.C.**

**In the Matter of**

**CERTAIN IP CAMERA SYSTEMS INCLUDING  
VIDEO DOORBELLS AND COMPONENTS  
THEREOF**

**INV. NO. 337-TA-1242**

**ORDER NO. 13: ORDERING DISCOVERY**

(July 22, 2021)

On July 19, 2021, complainants SkyBell Technologies, Inc., SB IP Holdings, LLC, and Eyetalk365, LLC (collectively, “Complainants”) sent me a letter outlining alleged discovery deficiencies on the part of respondent Vivint Smart Home, Inc. (“Vivint”). Letter from Vishal H. Patel to ALJ Cheney (July 19, 2021). On July 20, 2021, Vivint sent me a letter responding to Complainants’ letter. Letter from Charles Barquist to ALJ Cheney (July 20, 2021). I convened a case management conference on July 20, 2021, to discuss the issues raised in the letters.<sup>1</sup>

In view of the discussion during the case management conference, I hereby order the following actions, and Vivint is hereby given notice that failure to comply with this order may result in sanctions:

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<sup>1</sup> The transcript of the July 20 case management conference will be made available on EDIS as Doc. IDs 747567 (confidential session) and 747568 (public session).

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1. Vivint shall provide a copy of this order to its joint development partner, [REDACTED].
2. To the extent it has not done so, Vivint shall contact [REDACTED] and identify any source code for the Ping accused device residing in the shared source code repository identified in the joint development agreement between Vivint and [REDACTED]. *See* Tr. 21:3–7; VIVINT\_SKY\_ITC0058125, -38, and -43; *cf.* Tr. 24:11–16 (representing that an update will be provided July 21).
3. To the extent it has not done so, Vivint shall contact [REDACTED] and discuss the obligation to cooperate in litigation set forth in the joint development agreement. *See* Tr. 23:16–24:1; VIVINT\_SKY\_ITC0058127.
4. To the extent it has not done so, Vivint shall investigate whether [REDACTED] has a research and development operation in California that would be subject to the subpoena authority of the Commission. *See* Tr. 24:2–10; *cf.* Tr. 24:2–10 (representing that an update will be provided July 22).
5. To the extent it has not done so, Vivint shall produce all source code for the Ping accused device in its custody or control by noon on July 23, 2021, with the exception that any Ping code from the shared source code repository described in item 2 above may be produced by July 30, 2021. *See* Tr. 11:13–17 (representing that production will be complete by July 21).
6. To the extent it has not done so, Vivint shall produce relevant pricing information no later than noon on July 23, 2021. *See* Tr. 35:5-12 (representing that production will occur July 21).

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7. By noon on July 23, 2021, Vivint shall file on EDIS a written submission under the signature of its counsel describing its compliance with items 1 through 6 above and the outcome of its actions.
8. By noon on July 26, 2021, Vivint shall file on EDIS a sworn declaration from a person with knowledge, under penalty of perjury, (1) describing the joint source code repository, (2) describing in detail all Ping source code in possession of Vivint, including but not limited to all Ping code from the shared source code repository described in item 2 above, (3) describing the production of Ping source code in the “DBCP Source – Without STK” folder in June and July 2021, (4) attesting that all Ping source code in Vivint’s possession or control (and not in the shared source code repository described in item 2 above) has been produced. *See* Tr. 29:8–13; *see also* Tr. 27:13–17 (representing that an update about the “DBCP Source – Without STK” folder would be provided July 21).
9. Vivint shall make a corporate witness available for a further deposition on the issue of infringement of the accused products. The deposition shall conclude no later than August 4, 2021.

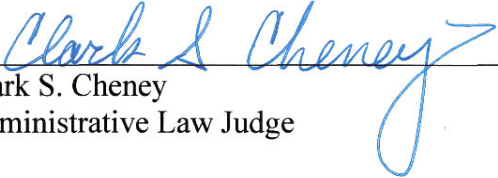
In the event that all relevant source code for the Ping device is not produced by July 30, 2021, Vivint and Complainants shall work towards a stipulation regarding the functionality of any missing source code. If a stipulation cannot be finalized, then the parties are advised that adverse inferences may be made regarding missing source code. *See* Tr. 25:16–25; *see also* 19 C.F.R. § 210.33(b) (non-monetary sanctions for failure to comply with an order compelling discovery).

The parties shall jointly submit within seven days a single proposed public version of this order with any proposed redactions indicated in red. To the extent possible, the proposed

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redactions should be made electronically, in a single pdf file using the “Redact Tool” within Adobe Acrobat. The proposed redactions should be submitted as “marked” but not yet “applied.” The proposed redactions or a statement of no redactions should be submitted via email to [Cheney337@usitc.gov](mailto:Cheney337@usitc.gov) and not filed on EDIS.

**SO ORDERED.**

  
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Clark S. Cheney  
Administrative Law Judge

**PUBLIC CERTIFICATE OF SERVICE**

I, Lisa R. Barton, hereby certify that the attached **ORDER** has been served upon the following parties as indicated, on **July 30, 2021**.



Lisa R. Barton, Secretary  
U.S. International Trade Commission  
500 E Street, SW, Room 112  
Washington, DC 20436

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