

ALABAMA**Baldwin County**

Jenkins Farm and House (Boundary Increase),
29040 Jenkins Farm Rd., Loxley,
BC100009548

Lowndes County

Campsite 2: Rosie Steele Property, 5892–5876
Highway 80 W, White Hall vicinity,
SG100009549

Morgan County

Simpson's Florist, 902 6th Avenue SE,
Decatur, SG100009550

KANSAS**Douglas County**

Lone Star Lake Civilian Conservation Corps
(CCC) Camp, (New Deal-Era Resources of
Kansas MPS), 660 E 665 Road, Lawrence
vicinity, MP100009545

WEST VIRGINIA**Morgan County**

Paw Paw Old Mayor's Office and Jail, 93 Lee
Street, Paw Paw, SG100009542

Randolph County

Davis & Elkins College Historic District
Portions of Campus Drive, Harpertown Road,
Graceland Drive, Allen Street & Residential
Drive, and College Drive, Elkins,
SG100009540

Wayne County

Stark, Henry and Julia Hoard, House, 359 B
Street, Ceredo, SG100009543

Wood County

Downtown Parkersburg Historic District,
Portions of Juliana, Market, Avery, and
Second through Eighth Streets and
Williams Court Alley and Phillips Court
Alley, Parkersburg, SG100009541

WISCONSIN**Dane County**

Willard and Fern Tompkins House, 110
Henuah Circle, Monona, SG100009539

A request for removal has been made
for the following resource(s):

NORTH DAKOTA**Golden Valley County**

Sentinel Butte Public School, Byron St.,
Sentinel Butte, OT82001313

Additional documentation has been
received for the following resource(s):

ILLINOIS**Kane County**

Aurora Broadway Historic District
(Additional Documentation), Roughly
bounded by the Fox R., East New York St.,
the Burlington Northern & Santa Fe
Railroad tracks, and East Benton St.,
Aurora, AD100008483

MISSISSIPPI**Panola County**

Como Commercial Historic District, (Johnson,
Andrew, Architecture in North Mississippi

TR), Roughly bounded by Elder Frank
Ward St. on the W and N Main St. on the
E. On the N bounded by Church Ave.,
Como, AD08000675

Authority: Section 60.13 of 36 CFR
part 60.

Sherry A. Frear,

*Chief, National Register of Historic Places/
National Historic Landmarks Program.*

[FR Doc. 2023–22771 Filed 10–13–23; 8:45 am]

BILLING CODE 4312–52–P

**INTERNATIONAL TRADE
COMMISSION**

[Investigation No. 337–TA–1363]

**Certain Lidar (Light Detection and
Ranging) Systems and Components
Thereof; Notice of Commission
Determination To Review and, on
Review, To Affirm With Modification an
Initial Determination Terminating the
Investigation in Its Entirety Based on
an Arbitration Agreement; Termination
of Investigation**

AGENCY: U.S. International Trade
Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that
the U.S. International Trade
Commission has determined to review
and, on review, to affirm with
modification an initial determination
("ID") (Order No. 10) of the presiding
administrative law judge ("ALJ")
granting a motion to terminate the
investigation in its entirety based upon
an arbitration agreement. The
investigation is terminated.

FOR FURTHER INFORMATION CONTACT:

Namo Kim, Esq., Office of the General
Counsel, U.S. International Trade
Commission, 500 E Street SW,
Washington, DC 20436, telephone (202)
205–3459. Copies of non-confidential
documents filed in connection with this
investigation may be viewed on the
Commission's electronic docket (EDIS)
at <https://edis.usitc.gov>. For help
accessing EDIS, please email
EDIS3Help@usitc.gov. General
information concerning the Commission
may also be obtained by accessing its
internet server at <https://www.usitc.gov>.
Hearing-impaired persons are advised
that information on this matter can be
obtained by contacting the
Commission's TDD terminal on (202)
205–1810.

SUPPLEMENTARY INFORMATION: On May
17, 2023, the Commission instituted this
investigation under section 337 of the
Tariff Act of 1930, as amended, 19
U.S.C. 1337 ("section 337"), based on a

complaint filed by Ouster, Inc. of San
Francisco, CA ("Ouster"). *See* 88 FR
31519–20 (May 17, 2023). The
complaint alleges violations of section
337 based upon the importation into the
United States, the sale for importation,
and the sale within the United States
after importation of certain LiDAR
(Light Detection and Ranging) systems
and components thereof by reason of the
infringement of certain claims of U.S.
Patent Nos. 11,175,405; 11,178,381;
11,190,750; 11,287,515; and 11,422,236.
Id. The notice of investigation names as
respondents Hesai Group of Shanghai,
China; Hesai Technology Co., Ltd. of
Shanghai, China; and Hesai Inc. of Palo
Alto, CA (collectively, "Hesai"). *Id.* The
Office of Unfair Import Investigations
("OUII") is also participating in this
investigation. *Id.*

On June 22, 2023, Hesai filed a
motion to terminate or alternatively stay
the investigation in its entirety based
upon an arbitration provision in a 2020
Litigation Settlement and Patent Cross-
License Agreement ("Settlement
Agreement") between Hesai Photonics
Technology Co. Ltd. ("Hesai Photonics,"
a subsidiary of respondent Hesai Group)
and Velodyne Lidar, Inc. ("Velodyne,"
now merged with Ouster). On July 7,
2023, Ouster filed an opposition to the
motion and OUII filed a response in
support of the motion. On July 12, 2023,
a case management conference was held
to give each of the parties an
opportunity to discuss the motion to
terminate or stay.

On July 17, 2023, Ouster filed a
supplemental brief. On July 18, 2023,
OUII filed a sur-reply to Ouster's
opposition. On July 20, 2023, Hesai filed
a sur-reply to Ouster's opposition.

On August 24, 2023, the ALJ issued
the subject ID (Order No. 10) pursuant
to Commission Rule 210.21(d), 19 CFR
210.21(d), granting the motion to
terminate the investigation in its
entirety under 19 U.S.C. 1337(c) because
of an arbitration agreement. In
particular, the ID finds that (1) "a valid
arbitration agreement at ¶ 9.5 exists as
part of the Settlement Agreement that
binds Ouster and Hesai," (2) "the
arbitrability of the dispute between
Ouster and Hesai . . . rests with
[Judicial Arbitration and Mediation
Services, Inc.], London," and (3) "Hesai
did not waive its right to arbitrate as
Ouster argues." *See* ID at 4.

On August 31, 2023, Ouster filed a
petition for review of the ID with the
Commission. On September 8, 2023,
Hesai and OUII filed their responses to
Ouster's petition.

On September 12, 2023, Ouster filed
a notice of recent developments
explaining that, on September 5, 2023,

Hesai filed petitions for *inter partes* review before the Patent Trial and Appeal Board with respect to two of the patents at issue in this investigation. On September 14, 2023, Hesai and OUII filed their responses to Ouster's notice of recent developments.

The Commission has determined to review and, on review, to affirm the subject ID with modification. In particular, the Commission strikes the "wholly groundless" legal standard discussion and analysis at pages 11–12 and 16 of the subject ID, including the following statements: (1) "[T]he ALJ then must make a secondary inquiry to determine whether the assertion of arbitrability is 'wholly groundless.' If it is determined that the assertion of arbitrability is not 'wholly groundless.'" ID at 11. (2) "Therefore, Hesai's claim for arbitration is not 'wholly groundless.'" ID at 11–12. (3) "In other words, the demand for arbitration is 'not wholly groundless.'" ID at 16. The Supreme Court previously overruled the "wholly groundless" exception, holding that "[w]hen the parties' contract delegates the arbitrability question to an arbitrator, a court may not override the contract . . . even if the court thinks that the argument that the arbitration agreement applies to a particular dispute is wholly groundless . . . In sum, we reject the 'wholly groundless' exception." *Henry Schein, Inc. v. Archer & White Sales, Inc.*, 139 S. Ct. 524, 529–31 (2019).

The Commission also addresses a typographical error at page 10 of the subject ID by modifying "See *id.* at ¶ 9.5" to state "See *id.* at ¶ 9.4." This is a citation for the sentence in the subject ID that states "[t]he Choice of Law for purposes of construing the Settlement Agreement is designated as California law," and Section 9.4 of the Settlement Agreement on "Governing Law" is the section that determines the choice of law for the Settlement Agreement.

With regard to Ouster's notice of recent developments, the Commission finds that, under the facts of this investigation, Hesai's separately filed *inter partes* review petitions do not prevent the Commission from determining that the investigation must be terminated in favor of arbitration. The Commission also notes that the Settlement Agreement provides that "either Party shall have the right to challenge the validity and enforceability of any Patent in defense to a suit or assertion of a claim relating to any such Patent that is brought against a Party or alleging infringement by a Licensee Product or a Velodyne Product." Settlement Agreement section 3.4 ("Contesting Validity").

The investigation is terminated. The Commission vote for this determination took place on October 10, 2023.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: October 11, 2023.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2023–22754 Filed 10–13–23; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

On October 10, 2023, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of Nebraska in the lawsuit entitled *United States of America v. Dravo Corp., et al.*, Civ. No. 8:01–cv–00500–JFB–TBT (D. Neb.).

The proposed consent decree resolves claims against Desco Corporation pursuant to section 107(a) CERCLA for response costs incurred and to be incurred by EPA for Operable Unit 01 of the Hastings Groundwater Contamination Superfund Site and requires the Defendant to make a payment of \$131,067 to EPA.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States of America v. Dravo Corp., et al.*, D.J. Ref. No. 90–11–2–1260/10. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By email	<i>pubcomment-ees.enrd@usdoj.gov.</i>
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the consent decree may be examined

and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for \$3.75 (25 cents per page reproduction cost) payable to the United States Treasury.

Patricia McKenna,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2023–22775 Filed 10–13–23; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Office of the Secretary

Senior Executive Service; Appointment of Members to the Performance Review Board

Title 5 U.S.C. 4314(c)(4) provides that Notice of the Appointment of the individual to serve as a member of the Performance Review Board of the Senior Executive Service shall be published in the **Federal Register**.

The following individuals are hereby appointed to serve on the Department's Performance Review Board:

Permanent Membership

Chair—Nikki McKinney, Associate Deputy Secretary
Vice-Chair—Carolyn Angus-Hornbuckle, Assistant Secretary for Administration and Management
Alternate Vice-Chair—Sydney Rose, Chief Human Capital Officer

Rotating Membership—Appointments Expire on 09/30/26

BLS Tony Williams, Associate Commissioner for Technology and Survey Processing
EBSA Amber Rivers, Director of Health Plan Standards and Compliance Assistance
ETA Nicholas Lalpui, Regional Administrator, Dallas
ILAB Molly McCoy, Associate Deputy Undersecretary
MSHA Brian Goepfert, Administrator for Mine Safety and Health Enforcement
OASAM Carl Campbell, Senior Procurement Executive
ODEP Jennifer Sheehy, Deputy Assistant Secretary