

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

CERTAIN ROBOTIC VACUUM CLEANING
DEVICES AND COMPONENTS THEREOF SUCH
AS SPARE PARTS

Inv. No. 337-TA-1057

**ORDER NO. 31: INITIAL DETERMINATION GRANTING MOTION TO
TERMINATE THE INVESTIGATION AS TO RESPONDENTS THE
BLACK & DECKER CORPORATION AND BLACK & DECKER
(U.S.) INC.;**

(January 9, 2018)

I. INTRODUCTION

On December 21, 2017, complainant iRobot Corp. (“iRobot”) moved to terminate the investigation with respect to all accused products from respondents The Black & Decker Corporation and Black & Decker (U.S.) Inc. (collectively, “Black & Decker”) under 19 C.F.R. § 210.21(b). (Motion Docket No. 1057-031.) iRobot explains the termination is due to iRobot’s entering into a settlement agreement with Black & Decker (hereafter “the Agreement”), and that there are “no other agreements, written or oral, express or implied, between iRobot and Black & Decker concerning the subject matter of the Investigation.” (Mot. at 1.) iRobot’s motion included, and referenced as Exhibit 1, a confidential version of the Agreement. The motion represents that “[t]he remaining Respondents do not oppose this motion.” (*Id.*) Also on December 21, 2017 iRobot filed a public version of its motion to terminate which included a public version of the Agreement.

II. STANDARDS OF LAW

Under Commission Rule 210.21(a)(2),

Any party may move at any time to terminate an investigation in whole or in part as to any or all respondents on the basis of a settlement, a licensing or other agreement

19 C.F.R. § 210.21(a)(2). Commission Rule 210.21(b)(1) further specifies that the motion to terminate must include: (1) copies of the licensing or other settlement agreement; (2) any supplemental agreements; and (3) a statement that there are no other agreements, written or oral, express or implied, between the parties concerning the subject matter of the investigation. *See* 19 C.F.R. § 210.21(b)(1). In addition, the Rule requires that the motion must include a public version of any licensing or other settlement agreement containing confidential business information. *See id.* Commission Rule 210.21(a)(1) also provides that, “[o]n motion for good cause shown, the administrative law judge may limit the service of the agreements to the settling parties and the Commission investigative attorney.” *See id.*

Pursuant to Commission Rule 210.50(b)(2), I must also consider and make appropriate findings regarding the effect of the proposed settlement on the public interest. *See* 19 C.F.R. § 210.50(b)(2).

III. DISCUSSION

iRobot filed confidential and public versions of its motion to terminate which included confidential and public versions of the Agreement (Exhibits A and A1, respectively, attached hereto). iRobot also represented that there are otherwise “no other agreements, written or oral, express or implied, between iRobot and Black & Decker concerning the subject matter of the Investigation.” (Mot. at 1.) Accordingly, I find that the requirements of Commission Rule 210.21(b)(1) have been met.

Public Version

With regard to the public interest, I have reviewed the pleadings filed in connection with iRobot's motion to terminate and do not find any information indicating that termination of this investigation on the basis of the Agreement is contrary to the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, or U.S. consumers. To the contrary, I find that termination of this investigation is in the public interest and will conserve public and private resources. *See, e.g., Certain Consumer Elecs., Including Mobile Phones and Tablets*, Inv. No. 337-TA-839, Order No. 35, 2013 WL 453756, *2 (Feb. 4, 2013) (“[T]ermination of litigation under these circumstances as an alternative method of dispute resolution is generally in the public interest and will conserve public and private resources.”).

IV. CONCLUSION

For the reasons above, it is my Initial Determination to GRANT the Unopposed Motion to Terminate this Investigation as to the Black & Decker respondents. (Motion Docket No. 1057-031).

This Initial Determination, along with any supporting documentation, is hereby certified to the Commission. Pursuant to 19 C.F.R. § 210.42(h), this Initial Determination shall become the determination of the Commission unless a party files a petition for review of the Initial Determination pursuant to 19 C.F.R. § 210.43(a), or the Commission, pursuant to 19 C.F.R. § 210.44, orders, on its own motion, a review of the Initial Determination or certain issues herein.

SO ORDERED.



Thomas B. Pender
Administrative Law Judge

EXHIBIT A
(omitted in public version)

EXHIBIT A1

COVENANT AND MUTUAL RELEASE AGREEMENT

This Covenant and Mutual Release Agreement (“**Agreement**”) is entered into between iRobot Corporation, organized and existing under the laws of Delaware, with its principal place of business at 8 Crosby Drive, Bedford, Massachusetts 01730 (“**iRobot**”), on the one side, and Stanley Black & Decker, Inc., organized and existing under the laws of Connecticut, with its principal place of business at 1000 Stanley Drive, New Britain, Connecticut 06053, and The Black & Decker Corporation and Black & Decker (U.S.) Inc., organized and existing under the laws of Maryland, each with their principal place of business at 701 E. Joppa Road, Towson, Maryland 21286 on the other side (collectively “**Black & Decker**”), as of the Effective Date, as defined below. As used herein, “**Party**” refers to either iRobot or Black & Decker and “**Parties**” refers to iRobot and Black & Decker collectively.

WHEREAS, Black & Decker desires to [REDACTED] [REDACTED] for it and its customers, vendors, suppliers, distributors, and manufacturers solely in relation to [REDACTED], and to resolve any disputes related thereto in relation to the accused indoor robotic vacuum devices developed by or at the direction of Black & Decker as set forth in Paragraph 1.8 (the “**Black & Decker Products**”);

WHEREAS, iRobot desires Black & Decker [REDACTED] [REDACTED];

WHEREAS, iRobot brought suit against a number of parties, including The Black & Decker Corporation and Black & Decker (U.S.) Inc. in *Certain Robotic Vacuum Cleaning Devices and Components Thereof Such as Spare Parts*, Inv. No. 337-TA-1057 (Int’l Trade Comm’n), filed April 18, 2017 (the “**ITC Action**”) and *iRobot Corp. v. The Black & Decker Corporation et al*, Case No. 1:17-cv-10648 (D. Mass.) (the “**District Court Action**”), and Black & Decker filed opposition proceedings at the European Patent Office involving iRobot Patent Nos. EP2330473 and EP2345945 (the “**European Oppositions**”);

WHEREAS, the Parties now desire to enter into this Agreement providing for a full, final, complete, and global disposition of the claims set forth in the ITC Action, District Court Action, and European Oppositions in relation to Black & Decker Products and [REDACTED] [REDACTED], all on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the above premises and the covenants, representations, and warranties contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

1. DEFINITIONS

1.1 “**Affiliate(s)**” shall mean any other Person directly or indirectly controlling a Party, controlled by a Party or under common control with a Party, currently or in the future. For purposes of this definition, “control” in this Section 1.1 means direct or indirect (e.g., through any number of successive tiers) ownership of: (a) more than fifty percent (50%) of the outstanding shares having the right to vote for the election of directors or other managing authority of the subject entity; or (b) in the case of an Person that does not have outstanding shares (e.g., a partnership, joint venture or unincorporated association), more than fifty



percent (50%) of the ownership interests having the right to make decisions for the subject entity.

1.2 “**Business Day**” shall mean any day other than a Saturday, a Sunday or a day on which banks in New York, U.S.A., are authorized or obligated by law or executive order to close.

1.3 “**Covenant Patent Rights**” shall mean (i) all robotic cleaning patents and patent applications (along with patents issuing thereon) in all jurisdictions worldwide that are, as of the Effective Date of this Agreement, assigned to, owned by, or controlled by iRobot, or for which iRobot has a right to assert a claim of infringement or to grant licenses, including without limitation the patents asserted in the ITC Action and/or District Court Action; and (ii) any robotic cleaning patents and patent applications, including divisional, continuations, continuations-in-part, reissues, reexaminations, utility models, foreign counterparts, parent or extension of any patent or application already in existence or that come into existence in the future, claiming direct or indirect priority from or to, sharing a common priority claim with, being in a related technical field to, or in any other way relying on the patents and patent applications of Section 1.3(i). For the avoidance of doubt, “Covenant Patent Rights” includes any and all robotic cleaning patents over which iRobot has or obtains control or ownership or title sufficient to grant a covenant not to sue as of or after the Effective Date.

1.4 “**Effective Date**” shall mean November 29, 2017.

1.5 “**Exit Date**” shall mean [REDACTED].

1.6 “**Exit Period**” shall mean [REDACTED].

1.7 “**Black & Decker Customers**” shall mean any and all entities that purchased or will purchase Black & Decker Products.

1.8 “**Black & Decker Products**” shall mean fully and/or partially assembled home robotic vacuum devices and/or components therefor manufactured, imported, sold, offered for sale and/or developed by or at the direction of Black & Decker for Black & Decker Customers and manufactured prior to the Effective Date, specifically limited to the



[REDACTED]. For the avoidance of doubt, the Black & Decker Products defined herein, whether assembled as of the Effective Date or ultimately assembled from then existing components, shall number no more than [REDACTED].

1.9 “**Person**” as used herein shall mean an individual, trust, corporation, partnership, joint venture, limited liability company, association, unincorporated organization or other legal or governmental entity.

1.10 “**Third Party**” shall mean any Person other than the Parties to the Agreement or an Affiliate of a Party to this Agreement.

1.11 “**Asserted Patents**” shall mean U.S. Patent No. 6,809,490, U.S. Patent No. 7,155,308, U.S. Patent No. 8,474,090, U.S. Patent No. 8,600,553, U.S. Patent No. 9,038,233, and/or U.S. Patent No. 9,486,924.

2. COVENANT AND RELEASE

2.1 **Covenant by iRobot.** In consideration for this Agreement, iRobot, on behalf of itself and its Affiliates, successors, and assigns, hereby covenants [REDACTED], their Affiliates, successors, and assigns on any Black & Decker Products manufactured prior to the Effective Date for alleged infringement of any Covenant Patent Rights for past damages, and future damages for the activities expressly permitted in Section 3.2. For the Black & Decker Products, such covenant shall be worldwide and shall extend to any entity to which this Agreement is assigned, and to all distributors, customers, end users of Black & Decker Products, and any other Black & Decker Customers, but only to the extent that such parties make, use, sell, import, or distribute any Black & Decker Product manufactured prior to the Effective, as defined in Paragraph 1.8. For the avoidance of doubt, the foregoing Section 2.1 does not release, discharge, or acquit any claims iRobot has and/or will have [REDACTED].¹ For clarity, iRobot shall not be entitled to any monetary compensation whatsoever in connection or in consideration for this Covenant or this Agreement.

2.2 **Release by iRobot.** In consideration for this Agreement, subject to the Representations and Warranties herein, iRobot hereby fully, finally, and forever releases, discharges, and acquits Black & Decker, Black & Decker Customers, and/or Black & Decker vendors, suppliers, distributors, and manufacturers, their Affiliates, successors, and assigns from any and all known claims arising out of, based upon, attributable to, or in connection with the ITC Action and District Court Action in relation to the Black & Decker Products. This release includes any and all known claims for damages, costs, and/or attorney fees arising out of, as a result of, or related to the allegations in the ITC Action and District Court Action in relation to Black & Decker Products. For the avoidance of doubt, the foregoing Section 2.2 does not release, discharge, or acquit any claims iRobot has and/or will have against [REDACTED].

2.3 **Release by Black & Decker.** In consideration for this Agreement, subject to the Representations and Warranties herein, Black & Decker hereby fully, finally, and forever releases, discharges, and acquits iRobot and its Affiliates from any and all known claims arising out of, based upon, attributable to, or in connection with the ITC Action and District Court Action in relation to defending against any claims regarding Black & Decker Products. This release includes any and all known claims for damages, costs, and/or attorney fees arising out of, as a result of, or related to the allegations in the ITC Action and District Court Action in relation to Black & Decker Products.

2.4 **General Release.** The Parties, having specific intent to release all potential claims described in the foregoing sections 2.2 and 2.3, whether known or unknown, do hereby acknowledge and expressly waive any rights they may have under the provisions of

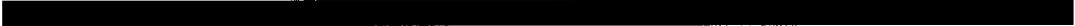
¹ Black & Decker takes no position on whether this reservation and the same one in Section 2.2 is legally effective, and nothing in this Agreement is conditioned on such a reservation being legally effective or enforceable against [REDACTED].




California Civil Code Section 1542 (or any similar law in another jurisdiction) which provides: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

2.5 **Dismissal by iRobot.** iRobot shall dismiss all existing claims in the ITC Action and District Court Action as to the Black & Decker Products upon execution of this Agreement by filing motions for dismissal substantially in the forms attached hereto as Exhibits A and B, or in such other form as required for approval by each court to effectuate the dismissals. Black & Decker makes no admission of infringement, patent validity, or liability by the negotiation, execution, or performance of this Agreement.

2.6 **Dismissal of European Invalidation Proceedings.** 

, within 10 business days from execution of this Agreement, withdrawal notices at the European Patent Office. iRobot makes no admission of invalidity as to any challenged iRobot patent by the negotiation, execution, or performance of this Agreement. Likewise, Black & Decker makes no admission of validity as to any challenged iRobot patent by the negotiation, execution or performance of this Agreement. For the purposes of this Section 2.6, performance by an Affiliate shall be considered performance of a Party.

2.7 **No Further Discovery.** Following the Effective Date, iRobot agrees that it shall not request any discovery or testimony, whether by subpoena or otherwise, from Black & Decker, its Affiliates or their employees in connection with the ITC proceeding, the District Court Action, or any other assertion of patent infringement in connection with the Asserted Patents (during the Exit Period) or the Black & Decker Products (as defined by Section 1.8). iRobot reserves the right to seek third party discovery or testimony from Black & Decker, its Affiliates, or their employees in connection with the District Court Action 




s.

3. REPRESENTATIONS AND WARRANTIES

3.1 **Mutual Representations.** Each Party hereby represents, warrants, and covenants that:

- a. It has, and throughout the term of this Agreement will have, the full right, power, authority and competence to enter into and perform its obligations under this Agreement;
- b. This Agreement has been duly executed by such Party;
- c. This Agreement constitutes a legal, valid, and binding obligation of such Party, enforceable against it in accordance with its terms;
- d. The execution and delivery of this Agreement and the performance of such Party's obligations hereunder (i) do not conflict with or violate such Party's corporate charter or bylaws or any requirement of applicable laws or regulations, and (ii) do not and shall not

[REDACTED]

during the Exit Period for their use, sale, manufacture, and/or importation of [REDACTED].

e. In addition to the representations set forth in Section 2.5, Black & Decker agrees that it [REDACTED]
[REDACTED]
[REDACTED], and except as required by subpoena, by law, or any governmental or regulatory authority. The foregoing shall include, but not be limited to, [REDACTED] during the Exit Period.

f. Black & Decker further represents that it is not a real party-in-interest with respect to the following *inter partes review* proceedings: IPR2017-02050; IPR2017-02061; IPR2017-02078; IPR2017-02133; IPR2017-02137; and IPR2018-00005. Black & Decker represents that it has not had any involvement, either directly or indirectly, in the preparation or funding of any activities related directly or indirectly to any of the above-referenced *inter partes review* proceedings.

4. **CONFIDENTIALITY**

4.1 **Designation of this Agreement as Confidential Information.** The terms of this Agreement shall be considered and treated as confidential information and the Parties agree that the Parties will not disclose, directly or indirectly, any information regarding this Agreement or the claims or allegations settled to any Third Party, other than their attorneys, accountants, tax preparers, financial advisors, the ITC, or unless otherwise required by law or judicial process, or in the defense of their rights or interests, provided, however, that either Party may publicly disclose that they have entered into this Agreement and name the Parties thereto. Such disclosure must specifically exclude disclosure of any of the terms and/or conditions of this Agreement, with the exception that iRobot may issue a press release in the form attached hereto as Exhibit C.

4.2 **Disclosure.** Any Party may disclose the existence and terms and/or conditions of this Agreement to (a) any court or governmental entity of competent jurisdiction requiring such disclosure, including without limitation the Securities and Exchange Commission and the ITC, to the extent disclosure is required; (b) in response to a valid subpoena or as otherwise may be required in a litigation; provided however, that the Party producing a copy of this Agreement shall exercise its best efforts to produce it subject to a protective order under an "Outside Attorneys' Eyes Only" or higher confidentiality designation; and (c) to a counterparty in connection with a potential merger, acquisition, financing, stock offering, or related transaction, with confidentiality obligations no less restrictive than those in this Agreement.

4.3 **Materiality.** The confidentiality provisions of this Agreement are material terms of this Agreement, and any breach of these provisions will constitute a material breach of this Agreement. The failure of any Party to enforce at any time any of the provisions governing the confidentiality of the terms of this Agreement or to require at any time performance by any of the Parties of any such provisions shall in no way be construed as a waiver of such provision or relinquishment of the right thereafter to enforce such provision.

4.4 **Destruction or Return of Confidential Business Information.** The parties agree that termination of the ITC proceeding relative to Black & Decker constitutes a final termination under paragraph 14 of the Protective Order issued in the ITC Action requiring return and/or destruction of materials designated as confidential business information. As such, each party will destroy or return all materials received from the other (including, but not limited to, deposition testimony designated as confidential business information), and make the certification of the same as required by paragraph 14 of the Protective Order, within fourteen (14) days after the ITC proceeding is terminated with respect to Black & Decker. Per paragraph 14 of the Protective Order, Black & Decker consents to destruction of such confidential information and certification of such destruction, instead of returning the same. Black & Decker certifies that (other than its outside counsel) it received no materials designated confidential business information requiring return or destruction. This provision shall not apply to Black & Decker's outside counsel because it still actively represents other Respondents in the ITC proceeding.

5. **BREACH**

5.1 **Material Breach.** If a Party materially breaches this Agreement:

a. The other Party may immediately terminate this Agreement upon written notice to the breaching Party, including voiding the covenant and releases set forth in Section 2 and Section 3.

b. The Parties agree that any material breach by a Party to this Agreement shall cause irreparable harm to the other Party which may not be adequately compensated by money damages. Accordingly, in the event of a breach or a threatened breach by a Party, the other Party shall be entitled to seek the remedies of specific performance, injunction, or other preliminary or equitable relief, without having to prove irreparable harm or actual damages. The foregoing right shall be in addition to such other rights or remedies as may be available to each Party for such breach or threatened breach, including the recovery of money damages.

6. **ASSIGNMENT**

6.1 **Assignment.** Except as expressly permitted in this Section, no Party may assign (by contract, operation of law, or otherwise) its rights under this Agreement without the prior written consent of the other Party and any attempt to assign without such permission will be void. Such consent shall not be unreasonably withheld.

6.2 **Permitted Assignment by Black & Decker.** Notwithstanding the provisions of Section 6.1, Black & Decker may assign its rights under this Agreement, in whole or in part, without iRobot's prior written consent, (1) as part of a sale or transfer of all or substantially all of a business or operating unit to an acquiring party, (2) in connection with a transaction effected solely for the purposes of changing the form or jurisdiction or organization of Black & Decker or its Affiliates, or (3) a reorganization, restructuring, or transaction involving Black & Decker and one or more of its Affiliates where substantially all of the business of such entities that were, immediately prior to such transaction, subject to this Agreement remain, immediately after such transaction, subject to this Agreement. Releases and covenants of Black & Decker and its Affiliates shall run with the rights assigned or transferred and shall be binding on any successors-in-interest, transferees, or assigns thereof.

6.3 **Permitted Assignment by iRobot.** Notwithstanding the provisions of Section 6.1, iRobot may assign its rights under this Agreement, in whole or in part, without Black & Decker's prior written consent provided that the assignment is subject to all of the terms and conditions of this Agreement and shall be binding on any purchasers, transferees, or assigns thereof. Subject to Sections 2 and 3, iRobot may sell, assign, or otherwise transfer any Covenant Patent Rights provided that the relevant licenses, releases, and covenants of iRobot contained herein shall run with the rights being sold, assigned, or transferred, and shall be binding on any successors-in-interest, transferees, or assigns thereof.

7. **MISCELLANEOUS**

7.1 **Entire Agreement, Amendment, Modification and Waiver.** This Agreement constitutes and contains the entire agreement between iRobot and Black & Decker, and supersedes any and all prior negotiations, conversations, correspondence, understandings, emails, and letters, respecting the subject matter hereof. This Agreement cannot be modified or amended in any respect orally or by the conduct of the Parties. This Agreement may be amended or modified or one or more provisions hereof waived only by a written instrument signed by all of the Parties. No delay or omission by any Party in exercising any right shall be construed as a waiver of such right, nor shall any single or partial exercise thereof preclude any further exercise thereof or the exercise of any other right. No waiver of any right under this Agreement shall be construed to be a previous or subsequent waiver of such right, nor shall it constitute the waiver of any performance other than the actual performance specifically waived.

7.2 **No Relationship Intended.** Nothing in this Agreement is intended or shall be deemed to constitute a partnership, agency, or joint venture relationship between iRobot and Black & Decker. Neither iRobot nor Black & Decker shall incur any debts or make any commitments for the other. There is no fiduciary duty or special relationship of any kind between iRobot and Black & Decker. Each Party expressly disclaims any reliance on any act, word, or deed of the other Party in entering into this Agreement.

7.3 **Governing Law.** This Agreement shall be construed, and the relationship between the Parties determined, in accordance with the laws of the State of Delaware, notwithstanding any choice-of-law principle that might dictate a different governing law. This Agreement and its terms shall be valid and enforceable throughout the world.

7.4 **Severability and Headings.** If one or more provisions of this Agreement are held to be invalid or unenforceable under applicable law, such provision shall be excluded from this Agreement and the balance of this Agreement shall be interpreted as if such provision were so excluded. In the event a part or provision of this Agreement is held to be invalid or unenforceable or in conflict with law for any reason, the Parties shall replace any invalid part or provision with a valid provision which most closely approximates the intent and economic effect of the invalid provision. The headings to this Agreement are for convenience only and are to be of no force or effect in construing and interpreting the provisions of this Agreement.

7.5 **Counterparts; Signatures.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which, when taken together, shall constitute one and the same instrument. This Agreement may be executed and delivered by facsimile or other means of electronic delivery and upon such delivery the signature will be deemed to have the same effect as if the original signature had been delivered to the other Party or Parties.



7.6 **Notices and Acceptance.** Any notice required or permitted under this Agreement shall be given in writing and shall be sent via overnight carrier, email, or via facsimile and certified United States mail (return receipt requested), to the addresses below:

For iRobot



AND

Stephen Marshall
Fish & Richardson P.C.
The McPherson Building
901 15th Street, NW, Suite 700
Washington, D.C. 20005
(not required for satisfying notice) AND

For Black & Decker



AND

Jack S. Barufka
Pillsbury Winthrop Shaw Pittman,
LLP
1650 Tysons Blvd.
McLean, VA 22102
(not required for satisfying notice)

Any Party may give written notice of a change of address or recipient name and, after notice of such change has been received, any notice or request shall thereafter be given to such Party as above provided at such changed address and/or recipient name.

7.7 **Interpretation.** The language of this Agreement has been approved by counsel for each Party, and no Party (nor their respective counsel) shall be deemed to be the draftsman of this Agreement. Thus, any rule of construction to the effect that ambiguities are to be resolved against the drafting Party will not be applied in the interpretation of this Agreement.

The words "include" and "including" and variations thereof, will not be deemed to be terms of limitation in this Agreement, but rather will be deemed to be followed by the words "without limitation."

7.8 **Consequential Damages.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO, LOSS OF PROFITS OR DAMAGES TO BUSINESS REPUTATION HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, WHETHER IN AN ACTION FOR CONTRACT, INFRINGEMENT, STRICT LIABILITY OR TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, WHETHER OR NOT A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY.

7.9 **Force Majeure.** No Party shall be liable for any failure to fulfill its obligations hereunder due to causes beyond its reasonable control, including but not limited to acts of omissions of government or military authority, acts of God, shortages of materials, transportation delays, earthquakes, fires, floods, labor disturbances, riots, or wars.

7.10 **Attorney Fees, Costs, and Expenses.** Each Party shall bear its own attorney's fees, costs, and expenses in relation to the ITC Action, District Court Action, and the negotiation and documentation of this Agreement. In the event of any breach of this Agreement, the non-breaching Party shall be entitled to attorney's fees, costs, and expenses incurred as a result of the breach, including pursuing any rights and remedies available to the non-breaching Party under this Agreement.

7.11 **Further Assurances.** The Parties agree to cooperate fully to take all additional actions that may be reasonably necessary or appropriate to give full force and effect to the terms of this Agreement.

7.12 **No Hypothetical Negotiation.** The Parties acknowledge that the terms of this Agreement did not result from the legal framework of a hypothetical negotiation.

7.13 **Survival.** The provisions of Sections 1, 4, and 7 will survive any termination of this Agreement.

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IN WITNESS WHEREOF, this Agreement has been duly executed by the Parties as of the Effective Date as follows:



The Black & Decker Corporation

By: _____

Name: _____

Title: _____

Dated: _____

Black & Decker (U.S.) Inc.

By: _____

Name: _____

Title: _____

Dated: _____

Stanley Black & Decker, Inc.

By: _____

Name: _____

Title: _____

Dated: _____



IN WITNESS WHEREOF, this Agreement has been duly executed by the Parties as of the Effective Date as follows:

iRobot Corp.

By: _____

Name: Glen D. Weinstein

Title: EVP & Chief Legal Officer

Dated: _____

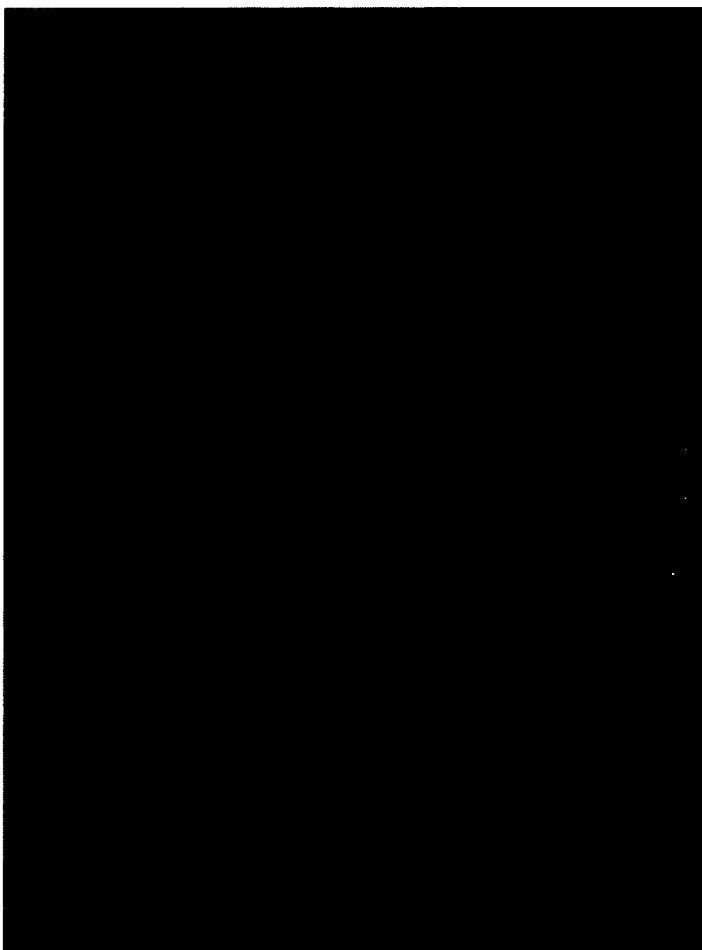


EXHIBIT A

[ITC ACTION]

MOTION TO TERMINATE PURSUANT TO COMMISSION RULE 210.21(a)

Pursuant to Commission Rule 210.21(a), Complainant iRobot Corp. (“iRobot”) hereby moves to terminate the investigation against The Black & Decker Corporation and Black & Decker (U.S.) Inc. (collectively “Black & Decker”), in whole.

There is an agreement between the parties concerning the subject matter of the investigation. (*See Confidential Exhibit 1.*)

Commission Rule 210.21(a) provides that “[a]ny party may move at any time prior to the issuance of an initial determination on violation of section 337 of the Tariff Act of 1930 to terminate an investigation in whole or in part as to any or all respondents, on the basis of the complaint or certain allegations contained therein.” The Commission has also stated “in the absence of extraordinary circumstances, termination of the investigation will be granted to a complainant during the prehearing stage of an investigation.” *Certain Ultrafiltration Sys. And Components Thereof, Including Ultrafiltration Membranes*, Inv. No. 337-TA-107, Comm’n Action and Order at 2 (Mar. 11, 1982).



EXHIBIT B

[DISTRICT COURT ACTION]

MOTION FOR DISMISSAL WITHOUT PREJUDICE

Plaintiff iRobot Corp. (“iRobot”), pursuant to Fed. R. Civ. P. 41(a)(1), hereby moves to dismiss all claims by iRobot against The Black & Decker Corporation and Black & Decker (U.S.) Inc. (collectively “Black & Decker”) without prejudice.


EXHIBIT C**[PRESS RELEASE]****iRobot Announces Agreement with Black & Decker in Patent Dispute**

BEDFORD, Mass., October 31, 2017 /PRNewswire/ -- iRobot Corp. (NASDAQ: IRBT), a leader in consumer robots and maker of the Roomba® vacuuming robot, today announced that it has reached a confidential agreement with Black & Decker. As part of the agreement, Black & Decker agreed to discontinue sales of all home robotic vacuums for a certain period of time after selling through its existing inventory. The remaining terms of the settlement are confidential.

“This settlement represents another successful milestone in the enforcement effort iRobot initiated earlier this year,” said Glen Weinstein, executive vice president and chief legal officer at iRobot. “iRobot believes in the strength of its patents, and the agreement by Black & Decker to discontinue sales of any home robotic vacuums for a certain period of time signifies, yet again, the value of iRobot’s intellectual property.”

As part of the agreement, iRobot has agreed to remove Black & Decker from the pending U.S. International Trade Commission (“ITC”) investigation No. 337-TA-1057 (“In the Matter of Certain Robotic Vacuum Cleaning Devices and Components Thereof Such as Spare Parts”) and the United States District Court of Massachusetts Case No. 1:17-cv-10647. The actions involving Bissell Homecare, Inc., bObsweep, Inc., bObsweep USA, Hoover, Shenzhen ZhiYi Technology Co., Ltd., Matsutek Enterprises Co., Ltd., and Shenzhen Silver Star Intelligent Technology Co., Ltd. will proceed. An evidentiary hearing in the ITC investigation is scheduled for March 2018.

About iRobot Corp.

iRobot, the leading global consumer robot company, designs and builds robots that empower people to do more both inside and outside of the home. iRobot created the home robot cleaning category with the introduction of its Roomba® Vacuuming Robot in 2002. Today, iRobot is a global enterprise that has sold more than 20 million robots worldwide. iRobot's product line, including the Roomba and the Braava® family of mopping robots, feature proprietary technologies and advanced concepts in cleaning, mapping and navigation. iRobot's engineers are building an ecosystem of robots and data to enable the smart home. For more information about iRobot, please visit www.irobot.com.

For iRobot Investors

Certain statements made in this press release that are not based on historical information are forward-looking statements which are made pursuant to the safe harbor provisions of the Private Securities Litigation Reform Act of 1995. This press release contains express or implied forward-looking statements relating to iRobot Corporation’s expectations concerning the litigation. These statements are neither promises nor guarantees, but are subject to a variety of risks and uncertainties, many of which are beyond our control, which could cause actual results to differ materially from those contemplated in these forward-looking statements. Existing and prospective investors are cautioned not to place undue reliance on these forward-looking statements, which speak only as of the date hereof. iRobot undertakes



no obligation to update or revise the information contained in this press release, whether as a result of new information, future events or circumstances or otherwise. For additional disclosure regarding these and other risks faced by iRobot, see the disclosure contained in our public filings with the Securities and Exchange Commission including, without limitation, our most recent Annual Report on Form 10-K and our Quarterly Report on Form 10-Q. SOURCE iRobot Corp.

**CERTAIN ROBOTIC VACUUM CLEANING DEVICES AND
COMPONENTS THEREOF SUCH AS SPARE PARTS**

INV. NO. 337-TA-1057

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **PUBLIC INITIAL DETERMINATION ORDER NO. 31** has been served upon the following parties via first class mail and air mail where necessary, on JAN 09 2018



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

FOR COMPLAINANT IROBOT CORPORATION	
Stephen A. Marshall, Esq. FISH & RICHARDSON P.C. The McPherson Building 901 15 th Street NW, 7 th Floor Washington, DC 20005	<input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Express Delivery <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____
FOR RESPONDENTS BISSELL HOMECARE, INC., & MATSUTEK ENTERPRISE CO. LTD.	
Harold H. Davis, Esq. K & L GATES LLP Four Embarcadero Center, Suite 1200 San Francisco, CA 94111	<input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Express Delivery <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____

**CERTAIN ROBOTIC VACUUM CLEANING DEVICES AND
COMPONENTS THEREOF SUCH AS SPARE PARTS**

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FOR RESPONDENTS THE BLACK & DECKER CORPORATION & BLACK & DECKER (U.S.) INC., SHENZHEN SILVER STAR INTELLIGENT TECHNOLOGY CO., LTD. HOOVER INC., & ROYAL APPLIANCE MANUFACTURING CO. D/B/A TTI FLOOR CARE NORTH AMERICA, INC. & BOBSWEEP USA, & BOBSWEEP INC.

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