

Mayborn Grp., Ltd. v. Int'l Trade Comm'n, 965 F.3d 1350 (Fed. Cir. 2020)

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Mayborn petitioned the International Trade Commission to rescind a general exclusion order (GEO) after the complainants informed Mayborn that its self-anchoring beverage containers were potentially subject to the order. The petition sought to prove that the patent was invalid, and the Commission denied the petition because the discovery of potentially invalidating prior art was not a “changed condition” under § 1337(k)(1). Mayborn appealed, and the Commission challenged Mayborn’s standing. The Federal Circuit held that Mayborn had standing but that the Commission correctly denied Mayborn’s petition.

The Commission challenged Mayborn’s standing because Mayborn’s products had not yet been excluded, and complainants’ efforts to enforce the GEO against Mayborn had nothing to do with the Commission’s decision not to rescind the GEO. The Commission reasoned that the complainants’ views on the scope of the GEO are irrelevant as Customs and the Commission enforce the GEO. The panel disagreed, noting that while the complainants may have brought the GEO to the attention of Mayborn, the Commission issued the GEO and retains the ability to enforce, modify, or rescind it. Accordingly, the Commission’s refusal to hear Mayborn’s petition caused Mayborn a redressable injury.

Mayborn argued that the Commission improperly denied its petition for a modification or rescission of the GEO because invalidity was a “changed condition” and because the public interest requires the Commission to consider validity. The panel held that patent invalidity was not a “changed condition” under subsection (k)(1), therefore the Commission lacked authority to grant Mayborn’s petition. Specifically, while a district court finding of invalidity changes the legal status of the patent, there is no similar effect of a petitioner’s mere assertion that the patent is invalid.

The panel held that patent invalidity was not a “changed condition” under subsection (k)(1), therefore the Commission lacked authority to grant Mayborn’s petition.

The panel also found that the statutory requirement to consider the public interest in remedy determinations does not fill this gap in the Commission’s authority.