

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination ("ID") (Order No. 4) issued by the presiding administrative law judge ("ALJ") terminating the above-captioned investigation in its entirety based upon a settlement agreement.

FOR FURTHER INFORMATION CONTACT:

Michelle Walters, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 708-5468. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.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: The Commission instituted this investigation on September 3, 2008, based on a complaint filed by Microsoft Corp. ("Microsoft"). The complaint alleged violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain peripheral devices, components thereof, and products containing the same by reason of infringement of various claims of seven United States patents. The complaint named Primax Electronics Ltd. ("Primax") as the sole respondent.

On December 15, 2008, complainant Microsoft and respondent Primax filed a joint motion to terminate the investigation in its entirety based on a settlement agreement. On December 23, 2008, the Commission investigative attorney filed a response in support of the motion.

On January 5, 2009, the ALJ issued the subject ID, granting the joint motion to terminate the investigation on the basis of the settlement agreement. No petitions for review were filed.

The Commission has determined not to review the subject ID. The investigation is terminated.

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 section 210.42 of the Commission's Rules of Practice and Procedure (19 CFR 210.42).

Issued: January 29, 2009.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9-2404 Filed 2-4-09; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-605]

In the Matter of Certain Semiconductor Chips With Minimized Chip Package Size and Products Containing Same; Notice of Commission Decision To Review in Part a Final Determination Finding No Violation of Section 337

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in part the presiding administrative law judge's ("ALJ") final initial determination ("ID") issued on December 1, 2008 finding no violation of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337 in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT:

Megan M. Valentine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 708-2301. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.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: The Commission instituted this investigation on May 21, 2007, based on a complaint

filed by Tessera, Inc. of San Jose, California against Spansion, Inc. and Spansion, LLC, both of Sunnyvale, California; QUALCOMM, Inc. of San Diego, California; AT1 Technologies of Thornhill, Ontario, Canada; Motorola, Inc. of Schaumburg, Illinois; STMicroelectronics N.V. of Geneva, Switzerland; and Freescale Semiconductor, Inc. of Austin, Texas. 72 FR 28522 (May 21, 2007). The complaint alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain semiconductor chips with minimized chip package size or products containing same by reason of infringement of one or more claims of U.S. Patent Nos. 5,852,326, and 6,433,419.

On December 1, 2008, the ALJ issued his final ID finding no violation of section 337 by Respondents. The ID included the ALJ's recommended determination on remedy and bonding. In his ID, the ALJ found that Respondents' accused products do not infringe asserted claims 1, 2, 6, 12, 16-19, 21, 24-26, and 29 of the '326 patent. The ALJ also found that Respondents' accused products do not infringe asserted claims 1-11, 14, 15, 19, and 22-24 of the '419 patent. The ALJ additionally found that the asserted claims of the '326 and '419 patents are not invalid for failing to satisfy the enablement requirement or the written description requirement of 35 U.S.C. 112 1. The ALJ further found that the asserted claims of the '326 and '419 patents are not invalid as indefinite of 35 U.S.C. 112 2. The ALJ also found that the asserted claims of the '326 and '419 patents are not invalid under 35 U.S.C. 102 for anticipation or under 35 U.S.C. 103 for obviousness. Finally, the ALJ found that an industry in the United States exists with respect to the '326 and '419 patents as required by 19 U.S.C. 1337(a)(2) and (3).

On December 15, 2008, Tessera and the Commission Investigative Attorney ("IA") filed separate petitions seeking review of the ALJ's determination concerning non-infringement of the asserted claims of the '326 and '419 patents. Also on December 15, 2008, Respondents filed various contingent petitions seeking review of certain aspects of the ALJ's findings as concern both the '326 and '419 patents in the event that the Commission determines to review the ID's findings concerning non-infringement. On December 23, 2008, Respondents filed an opposition to Tessera's and the IA's petitions for review and Tessera and the IA filed

separate responses to Respondents' various contingent petitions for review.

Having examined the record of this investigation, including the ALJ's final ID, the petitions for review, and the responses thereto, the Commission has determined to review the final ID in part. Specifically, the Commission has determined to review the ALJ's finding that Respondents' accused devices do not infringe asserted claims 1, 2, 6, 12, 16–19, 21, 24, and 29 of the '326 patent and asserted claims 1–8, 9–11, 14, 15, 19, and 22–24 of the '419 patent. The Commission has further determined to review the ALJ's finding that Tessera has waived any argument that the accused products indirectly infringe the asserted patents. The Commission has also determined to review the ALJ's finding that the Motorola's OMPAC invention does not anticipate the asserted patents under 35 U.S.C. 102(b). Finally, the Commission has determined to review the ALJ's finding that the Motorola's OMPAC invention does not anticipate the asserted patents under 35 U.S.C. 102(g). The Commission has determined not to review the remaining issues decided in the ID.

The parties are requested to brief their positions on the issues under review with reference to the applicable law and the evidentiary record. In connection with its review, the Commission is particularly interested in responses to the following questions:

1. Please address how the absence of the compliant layer affects the effective CTE of the baseline packages in the sense of the material properties of the structures remaining in the baseline. Specifically, to what extent does the CTE of the compliant layer materials affect the effective CTE of the actual packages as compared to their corresponding baseline packages? Also, how specifically do the substituted materials in the baseline packages affect the effective CTE of the baseline packages?

2. Please address whether Dr. Qu's plastic work analysis can be isolated to the validated range of the finite element analysis ("FEA") models, and if so, whether the validated results are sufficient to satisfy the preponderance of the evidence standard for infringement.

3. Please address whether Tessera may prove infringement by relying on multiple tests rather than one test. In his first test, Dr. Qu demonstrated the existence of terminal-to-chip displacement and its effect on improved reliability in the accused chips by comparing the on-board behavior of FEA models of the accused packages to the on-board behavior of FEA models of

their corresponding baseline packages. In his second test, Dr. Qu showed that the accused chips exhibit improved reliability under external loads by directly applying simulated external loads to the accused packages and their corresponding baseline packages. Was it sufficient that Dr. Qu showed the required features of the claimed movement terminal-to-chip displacement and improved reliability under application of external loads without directly showing terminal-to-chip displacement due to external loads?

4. Please address whether Motorola exercised reasonable diligence in reducing the OMPAC invention to practice by filing the applications leading to U.S. Patent Nos. 5,241,133 and 5,216,278, and whether the confidentiality agreement between Motorola and Citizen Watch amounted to "suppression" and/or "concealment" of the OMPAC invention.

In connection with the final disposition of this investigation, the Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue one or more cease and desist orders that could result in the respondent(s) being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *In the Matter of Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843 (December 1994) (Commission Opinion).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the

aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. See Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

Written Submissions: The parties to the investigation are requested to file written submissions on the issues identified in this notice. Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the recommended determination by the ALJ on remedy and bonding.

In addition, with respect to the limited exclusion order ("LEO") sought by complainant, please address whether the Federal Circuit's decision in *Kyocera Wireless Corp. v. ITC*, 545 F.3d 1340 (Fed. Cir. 2008), has any impact on whether unnamed importers are covered by the LEO. Cf. Additional Views of Chairman Shara L. Aranoff, Vice Chairman Daniel R. Pearson, and Commissioner Deanna Tanner Okun in *Certain GPS Devices and Products Containing Same*, 337-TA-602."

Complainants and the IA are also requested to submit proposed remedial orders for the Commission's consideration. Complainants are also requested to state the dates that the patents expire and the HTSUS numbers under which the accused products are imported. The written submissions and proposed remedial orders must be filed no later than close of business on Friday, February 13, 2009. Reply submissions must be filed no later than the close of business on Monday, February 23, 2009. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Any person desiring to submit a document to the Commission in confidence must request confidential treatment unless the information has

already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 210.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

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 sections 210.42–46 and 210.50 of the Commission's Rules of Practice and Procedure (19 CFR 210.42–46 and 210.50).

Issued: January 30, 2009.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9–2401 Filed 2–4–09; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Judgment Pursuant to Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that on January 29, 2009, a proposed settlement agreement in *In re Interstate Bakeries Corporation, et al.*, Case No. 04–45814, was lodged with the United States Bankruptcy Court for the Western District of Missouri.

The settlement agreement resolves the United States' proof of claim in the Chapter 11 reorganization of Interstate Bakeries Corporation and its affiliates ("Debtors"). The United States' proof of claim sought recovery of cleanup costs under Section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9607(a), at the Hows Corner Superfund Site in Plymouth, Maine ("Site"). The proposed settlement agreement provides for EPA to have an allowed general unsecured nonpriority claim in the total amount of \$84,020. The claim will be paid in the ordinary course of the bankruptcy proceeding.

The Department of Justice will receive for a period of 30 days from the date of this publication comments regarding the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, and either e-mailed to pubcomment-ees.enrd@usdoj.gov or mailed to P.O.

Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *In re Interstate Bakeries Corporation, et al.*, Case No. 04–45814, D.J. Ref. No. 90–11–3–1733/9.

The proposed settlement agreement may be examined at the Region I Office of the U.S. Environmental Protection Agency, One Congress Street, Suite 1100, Boston, MA 02114. During the public comment period, the proposed Consent Decree may also be examined on the following Department of Justice Web site, http://www.usdoj.gov/enrd/Consent_Decrees.html. A copy of the proposed Consent Decree may be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (tonia.fleetwood@usdoj.gov), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. If requesting a copy of the proposed Consent Decree, please enclose a check in the amount of \$1.75 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Ronald Gluck,

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

[FR Doc. E9–2407 Filed 2–4–09; 8:45 am]

BILLING CODE 4410–15–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52–034 and 52–035; NRC–2008–0594]

Luminant Generation Company LLC; Application for the Comanche Peak Nuclear Power Plant Units 3 and 4; Notice of Order, Hearing, and Opportunity To Petition for Leave To Intervene

Pursuant to the Atomic Energy Act of 1954, as amended, and the regulations in Title 10 of the *Code of Federal Regulations* (10 CFR) part 2, "Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders," 10 CFR part 50, "Domestic Licensing of Production and Utilization Facilities," and 10 CFR part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants," notice is hereby given that a hearing will be held, at a time and place to be set in the future by the U.S. Nuclear Regulatory Commission (NRC, the Commission) or designated by the Atomic Safety and Licensing Board (Board). The hearing

will consider the application dated September 19, 2008, as supplemented by letters dated November 4, 5, 6, and 10, and December 18, 2008, filed by Luminant Generation Company LLC (Luminant), pursuant to subpart C of 10 CFR part 52, for a combined license (COL). The application requests approval of a COL for Comanche Peak Nuclear Power Plant, Units 3 and 4 to be located at the existing Comanche Peak Nuclear Power Plant site in Somervell County, Texas. The application was accepted for docketing on December 2, 2008 (73 FR 75141; December 10, 2008). The docket numbers established for Units 3 and 4 are 52–034 and 52–035, respectively. The Comanche Peak Nuclear Power Plant COL application incorporates by reference, the U.S. Advanced Pressurized Water Reactor (US-APWR) Design Control Document (DCD), currently under NRC staff review. By letter dated February 29, 2008, the NRC staff accepted the US-APWR DCD for docketing.

The hearing will be conducted by a Board that will be designated by the Chairman of the Atomic Safety and Licensing Board Panel or will be conducted by the Commission. Notice as to the membership of the Board will be published in the **Federal Register** at a later date. The NRC staff will complete a detailed technical review of the application and will document its findings in a safety evaluation report. The Commission will refer a copy of the application to the Advisory Committee on Reactor Safeguards (ACRS) in accordance with 10 CFR 52.87, "Referral to the ACRS," and the ACRS will report on those portions of the application that concern safety. The NRC staff will also prepare an Environmental Impact Statement, as required by 10 CFR 51.20(b)(2).

Any person whose interest may be affected by this proceeding and who desires to participate as a party to this proceeding must file a written petition for leave to intervene in accordance with 10 CFR 2.309. Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

A petition for leave to intervene must be filed no later than 60 days from the date of publication of this notice in the **Federal Register**. Non-timely filings will not be entertained absent a determination by the Commission or presiding officer designated to rule on the petition, pursuant to the requirements of 10 CFR 2.309(c)(i)–(viii).