

Issued: April 25, 2011.

William R. Bishop,

Acting Secretary to the Commission.

[FR Doc. 2011-10281 Filed 4-27-11; 8:45 am]

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INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-692]

Certain Ceramic Capacitors and Products Containing Same; Notice of the Commission's Final Determination of No Violation of Section 337; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined that there has been no violation of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, in this investigation, and has terminated the investigation.

FOR FURTHER INFORMATION CONTACT:

Panyin A. Hughes, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205-3042. 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 November 4, 2009, based on a complaint filed by Murata Manufacturing Co., Ltd. of Kyoto, Japan and Murata Electronics North America, Inc. of Smyrna, Georgia (collectively, "Murata"). 74 FR 57193-94 (Nov. 4, 2009). 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 ceramic capacitors and products

containing the same by reason of infringement of various claims of United States Patent Nos. 6,266,229 ("the '229 patent"); 6,014,309 ("the '309 patent"); 6,243,254 ("the '254 patent"); and 6,377,439 (subsequently terminated from the investigation). The complaint named Samsung Electro-Mechanics Co., Ltd. of Suwon City, Korea and Samsung Electro-Mechanics America, Inc. of Irvine, California (collectively, "Samsung") as respondents.

On December 22, 2010, the ALJ issued his final ID, finding no violation of section 337 by Respondents with respect to any of the asserted claims of the asserted patents. Specifically, the ALJ found that the accused products do not infringe the asserted claims of the '254 patent. The ALJ also found that none of the cited references anticipates the asserted claims and that none of the cited references renders the asserted claims obvious. The ALJ further found that the asserted claims are not rendered unenforceable due to inequitable conduct. The ALJ, however, found that asserted claims 11-14, 19, and 20 of the '254 patent fail to satisfy the requirements of 35 U.S.C. 112 for lack of written description. Regarding the '309 patent, the ALJ found that the accused products do not infringe asserted claim 3 and that none of the cited references anticipates or renders obvious asserted claim 3. The ALJ further found that the asserted claim is not rendered unenforceable due to inequitable conduct. With respect to the '229 patent, the ALJ found that the accused products meet all the limitations of the asserted claims and that the asserted claims are not rendered unenforceable due to inequitable conduct. The ALJ further found that the cited references do not anticipate the asserted claims but found that the prior art renders the asserted claims obvious. The ALJ concluded that an industry exists within the United States that practices the '254 patent and the '229 patent but that a domestic industry that practices the '309 patent does not exist as required by 19 U.S.C. 1337(a)(2) and (3).

On January 4, 2011, Murata and the Commission investigative attorney filed petitions for review of the ID. That same day, Samsung filed a contingent petition for review of the ID. On January 12, 2011, the parties filed responses to the various petitions and contingent petition for review.

On February 23, 2011, the Commission determined to review the final ID in part and requested briefing on several issues it determined to review, and on remedy, the public interest and bonding. 76 FR 11275 (Mar.

1, 2011). The Commission determined to review the findings related to the '229 patent and in particular the finding that the AAPA (Applicant Admitted Prior Art) does not invalidate the asserted claims of the '229 patent. The Commission determined not to review any issues related to the '309 patent and the '254 patent and terminated those patents from the investigation.

On March 8, 2011, the parties filed written submissions on the issues under review, remedy, the public interest, and bonding. On March 15, 2011, the parties filed reply submissions on the issues on review, remedy, the public interest and bonding.

Having examined the record of this investigation, including the ALJ's final ID, the Commission has determined that there is no violation of section 337. Specifically, the Commission has determined to (1) reverse the ALJ's finding to the extent that it suggests that the AAPA cannot constitute prior art and (2) find that the asserted claims of the '229 patent are obvious in light of a combination of (i) the AAPA and the knowledge in the art at the time of filing the patent's priority document, (ii) the AAPA and Nagakari (Japanese unexamined patent application H11-21429), or (iii) the AAPA and the deNeuf product (product samples sold by Murata and provided by Mr. deNeuf). The Commission vacates the ALJ's finding that the AAPA does not anticipate the asserted claims of the '229 patent; however, given the Commission's finding that the asserted claims of the '229 patent are invalid for obviousness, the Commission does not reach the issue of anticipation. The Commission adopts the ALJ's findings regarding the '229 patent in all other respects.

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

By order of the Commission.

Issued: April 22, 2011,

James R. Holbein,

Acting Secretary to the Commission.

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