

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

In the Matter of)

CERTAIN PERSONAL COMPUTERS,)
SERVER COMPUTERS, AND COMPONENTS)
THEREOF)

Inv. No. 337-TA-509

**NOTICE OF COMMISSION DECISION NOT TO REVIEW AN INITIAL
DETERMINATION EXTENDING THE TARGET DATE FOR COMPLETION 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 not to review an initial determination (“ID”) issued by the presiding administrative law judge (“ALJ”) extending the target date for completion of the above-captioned investigation until August 21, 2006.

FOR FURTHER INFORMATION CONTACT: Steven Crabb, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-5432. 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, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<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: This investigation was instituted by the Commission on June 7, 2004, based on a complaint filed by Hewlett-Packard Company of Palo Alto, California (“HP”) under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337. 69 *Fed. Reg.* 31844. The complainant alleged violations of section 337 in the importation and sale of certain personal computers, monitors, and components thereof, by reason of infringement of seven U.S. patents. HP named Gateway, Inc. of Poway, California (“Gateway”) as the sole respondent.

On August 8, 2005, the ALJ issued a final ID on violation and his recommended

determination on remedy and bonding. Claim 1 of U.S. Patent No. 5,737,604, claims 1, 3-4, 6-8, 18, 20-21, 23-25, 35, 37, 38, and 40-42 of U.S. Patent No. 6,138,184 (“the ‘184 patent”), claim 9 of U.S. Patent No. 5,892,976 (“the ‘976 patent”), and claim 1 of U.S. Patent No. 6,085,318 (“the ‘318 patent”) remained at issue in this investigation when the ALJ issued his final ID. On October 20, 2005, the Commission determined to review the final ID in its entirety. *70 Fed. Reg.* 61157 (October 20, 2005).

On December 8, 2005, the Commission determined to reverse the ALJ’s finding of literal infringement with respect to claim 7, 24, and 41 of the ‘184 patent, and claim 9 of the ‘976 patent and to remand the investigation to the ALJ for additional findings concerning infringement under the doctrine of equivalents and a determination of whether the technical prong of the domestic industry requirement of section 337 had been met for the ‘184 and ‘976 patents. The Commission also determined to vacate that portion of the ID which concerns infringement of claim 1 of the ‘318 patent under the doctrine of equivalents. The Commission determined to affirm the remainder of the ID. The Commission also directed the ALJ to rule on a Motion, Docket No. 52C.

On December 20, 2005, the ALJ issued an ID (Order No. 46) extending the target date of the investigation by five months or until May 31, 2006. The Commission determined not to review Order No. 46 on January 9, 2006. On March 28, 2006, the ALJ issued an ID (Order No. 48) extending the target date of the investigation by an additional thirty days, or until June 30, 2006, pursuant to a joint motion by HP and Gateway indicating that settlement negotiations were ongoing. The Commission determined not to review Order No. 48 and extended the target date for completion of the investigation until June 30, 2006.

On April 27, 2006, HP and Gateway filed another joint motion to extend the target date in order to complete drafting of a final settlement agreement in this investigation. The ALJ issued an ID (Order No. 49) on April 28, 2006, extending the target date for completion of the investigation until August 21, 2006. The Commission has determined not to review Order No. 49, thereby extending the target date for completion of the investigation until August 21, 2006.

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 C.F.R. § 210.42).

By order of the Commission.

Marilyn R. Abbott
Secretary to the Commission

Issued: May 11, 2006