

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN INTEGRATED CIRCUITS
WITH VOLTAGE REGULATORS AND
PRODUCTS CONTAINING SAME**

Investigation No. 337-TA-1024

**NOTICE OF COMMISSION DETERMINATION TO REVIEW AN INITIAL
DETERMINATION EXTENDING THE TARGET DATE; SCHEDULE FOR FILING
WRITTEN SUBMISSIONS**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (“Commission”) has determined to review an initial determination (“ID”) (Order No. 58) extending the target date for completion of this investigation to September 2, 2020. The Commission is requesting written submissions from the parties.

FOR FURTHER INFORMATION CONTACT: Ron Traud, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-205-3427. 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 <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission’s electronic docket (“EDIS”) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal, telephone 202-205-1810.

SUPPLEMENTARY INFORMATION: On October 18, 2016, the Commission instituted this investigation based on a complaint filed by R2 Semiconductor, Inc. of Sunnyvale, CA (“R2”). 81 FR 71764 (Oct. 18, 2016). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (“section 337”), based upon the importation into the United States, the sale for importation, or the sale within the United States after importation of certain integrated circuits with voltage regulators and products containing the same by reason of infringement of certain claims of U.S. Patent No. 8,233,250 (“the ’250 patent”). *Id.* The Commission’s notice of investigation named as respondents Intel Corporation of Santa Clara, California; Intel Ireland Ltd. of Leixlip, Ireland; Intel Products Vietnam Co., Ltd. of Ho Chi

Minh City, Vietnam; Intel Israel 74 Ltd. of Haifa, Israel; Intel Malaysia Sdn. Berhad of Penang, Malaysia; Intel China, Ltd. of Beijing, China; Dell, Inc. of Round Rock, Texas; Dell Technologies Inc. of Round Rock, Texas; HP Inc. of Palo Alto, California; and Hewlett Packard Enterprise Co. of Palo Alto, California (collectively, “respondents”). *Id.* The Office of Unfair Import Investigations is participating in this investigation. *Id.*

On July 31, 2018, the Patent Trial and Appeal Board issued final written decisions in *inter partes* review proceedings, finding all asserted claims of the ’250 patent to be invalid. On August 16, 2018, respondents filed an unopposed motion to stay this investigation pending appellate review of those decisions. On August 31, 2018, the administrative law judge (“ALJ”) granted that motion.

On July 26, 2019, the parties jointly moved to continue the stay. On July 29, 2019, the ALJ granted that motion.

On July 30, 2019, the ALJ issued the subject ID (Order No. 58), which extends the target date for completion of this investigation from December 2, 2019, to September 2, 2020. No petitions for review of the ID were filed.

The Commission has determined to review the subject ID. The parties are requested to brief their positions with reference to the applicable law regarding the questions provided below:

- (1) Section 337(b)(1), 19 USC 1337(b)(1), requires that “[t]he Commission shall conclude any such investigation and make its determination under this section at the earliest practicable time after the date of publication of the notice of such investigation.” Commission Rule 210.2, 19 CFR 210.2, states that “to the extent practicable and consistent with requirements of law, all investigations and related proceedings under this part shall be conducted expeditiously” and that the parties, their representatives, and the presiding ALJ “shall make every effort at each stage of the investigation or related proceeding to avoid delay.” In light of these mandates, please explain the legal basis that justifies continuing the stay in this investigation.
- (2) What is the policy justification for continuing the stay of uncertain duration in this investigation? Please discuss whether, as a matter of law or policy, the investigation should be terminated at this juncture given that no party desires to litigate this case at this time? Is it permissible for R2 to file a new complaint at a later date if the asserted patent claims remain valid following appellate review?
- (3) What prejudice, if any, is any party facing as a result of the stay in this investigation? What prejudice, if any, would any party face if the stay were shortened or lifted entirely?

WRITTEN SUBMISSIONS: The parties to the investigation are requested to file opening and reply written submissions on the issues identified in this Notice. The parties’ opening submissions must be filed no later than close of business on August 28, 2019. The parties’ reply submissions must be filed no later than the close of business on September 4, 2019. No further

submissions on any of these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit eight true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number ("Inv. No. 337-TA-1024") in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, https://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf). Persons with questions regarding filing should contact the Secretary (202-205-2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes (all contract personnel will sign appropriate nondisclosure agreements). All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

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 part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: August 23, 2019