

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

**In the Matter of**

**CERTAIN NON-VOLATILE MEMORY  
DEVICES AND PRODUCTS  
CONTAINING SAME**

**Investigation No. 337-TA-1046**

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL  
DETERMINATION GRANTING COMPLAINANTS' UNOPPOSED MOTION TO  
TERMINATE THE INVESTIGATION AS TO CERTAIN ASSERTED PATENT  
CLAIMS BASED UPON WITHDRAWAL OF ALLEGATIONS PERTAINING TO  
THOSE CLAIMS FROM THE COMPLAINT**

**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”) (Order No. 20) of the presiding administrative law judge (“ALJ”) granting complainants’ unopposed motion to terminate the investigation as to claims 11, 12, and 16 of U.S. Patent No. 6,788,602 (“the ’602 patent”) based upon withdrawal of allegations pertaining to those claims from the complaint.

**FOR FURTHER INFORMATION CONTACT:** Panyin A. Hughes, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 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, S.W., Washington, D.C. 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 on (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted Inv. No. 337-TA-1046 on April 12, 2017, based on a complaint filed by Macronix International Co., Ltd. of Hsin-chu, Taiwan and Macronix America, Inc. of Milpitas, California (collectively, “Macronix”). 82 *Fed. Reg.* 17687-88 (Apr. 12, 2017). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended (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 non-volatile memory devices and products containing the same that infringe one or more claims of U.S. Patent No. 6,552,360; U.S. Patent No. 8,035,417; and the ’602 patent. The notice of

investigation named the following respondents: Toshiba Corporation of Tokyo, Japan; Toshiba America, Inc. of New York, New York; Toshiba America Electronic Components, Inc. of Irvine, California; Toshiba America Information Systems, Inc. of Irvine, California; and Toshiba Information Equipment (Philippines), Inc. of Binan, Philippines. Toshiba Memory Corporation of Tokyo, Japan was subsequently added as a respondent. *See* Order No. 11 (June 1, 2017), Comm'n Notice of Non-Review (June 16, 2017). The Office of Unfair Import Investigations is a party to the investigation.

On September 22, 2017, Macronix moved to terminate the investigation as to claims 11, 12, and 16 of the '602 patent based upon withdrawal of allegations pertaining to those claims from the complaint. Macronix stated that the respondents and the Commission investigative attorney do not oppose the motion. No responses to the motion were filed.

On October 3, 2017 (corrected on October 5, 2017), the ALJ issued the subject ID granting the unopposed motion. The ALJ found that the motion complies with the requirements of Commission Rule 210.21(a)(1) (19 C.F.R. § 210.21(a)(1)) and further found that there are no extraordinary circumstances that prevent granting the motion. None of the parties petitioned for review of the ID.

The Commission has determined not to review the ID.

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 C.F.R. Part 210).

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', written in a cursive style.

Lisa R. Barton  
Secretary to the Commission

Issued: October 17, 2017