

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

In the Matter of

**CERTAIN SEMICONDUCTOR
INTEGRATED CIRCUITS
AND PRODUCTS CONTAINING SAME**

Investigation No. 337-TA-665

**NOTICE OF COMMISSION DETERMINATION
TO REVIEW IN PART A FINAL INITIAL DETERMINATION
FINDING NO VIOLATION OF SECTION 337
AND ON REVIEW TO TAKE NO POSITION ON ONE ISSUE;
TERMINATION OF THE INVESTIGATION WITH A FINDING
OF NO VIOLATION**

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 final initial determination (“ID”) issued by the presiding administrative law judge (“ALJ”) on October 14, 2009, finding no violation of section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337, in this investigation. On review, the Commission has determined to take no position on one issue, and to terminate this investigation with a finding of no violation.

FOR FURTHER INFORMATION CONTACT: Sidney A. Rosenzweig, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-2532. 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: The Commission instituted Inv. No. 337-TA-665 on December 24, 2008, based on a complaint filed by Qimonda AG of Munich, Germany (“Qimonda”). 73 *Fed. Reg.* 79165 (Dec. 24, 2008). The complaint alleged a violation of section 337 in the importation, sale for importation, and sale within the United States after importation of certain semiconductor integrated circuits and products containing same by reason of

infringement of various claims of U.S. Patent Nos. 5,213,670 (“the ’670 patent”); 5,646,434 (“the ’434 patent”); 5,851,899 (“the ’899 patent”); 6,495,918 (“the ’918 patent”); 6,593,240 (“the ’240 patent”); 6,714,055 (“the ’055 patent”); and 6,103,456 (“the ’456 patent”). The complaint further alleged that there exists a domestic industry with respect to each of the asserted patents. The complaint named the following respondents: LSI Corporation of Milpitas, California (“LSI”); Seagate Technology of the Cayman Islands; Seagate Technology (US) Holdings Inc. of Scotts Valley, California; Seagate Memory Products (US) Corporation of Scotts Valley, California; and Seagate (US) LLC of Scotts Valley, California (collectively “Seagate”). Qimonda accuses of infringement certain LSI integrated circuits, as well as certain Seagate hard disk drives that contain the accused LSI integrated circuits.

The ALJ conducted an evidentiary hearing from June 1-9, 2009. Prior to the hearing, Qimonda tacitly withdrew three of the asserted patents: the ’055 patent, the ’240 patent, and the ’456 patent. Qimonda did not present evidence regarding those patents at the hearing, and did not include any analysis of those patents in its post-hearing briefing.

On October 14, 2009, the ALJ issued his final ID. The ID formally withdrew the ’055 patent, the ’240 patent, and the ’456 patent from the investigation. The ALJ found that based on his claim constructions, Qimonda had not demonstrated that it practices any of the patents in suit. Accordingly, the ALJ ruled that an industry does not exist in the United States that exploits any of the four remaining asserted patents, as required by 19 U.S.C. § 1337(a)(2). The ALJ ruled that certain LSI products infringe certain claims of the ’918 patent, but that no accused products infringe any of the other asserted patents. The ALJ ruled that all of the asserted claims of the ’918 patent, and some of the asserted claims of the ’434 patent, are invalid under 35 U.S.C. § 102, but that the asserted claims of the ’670 and ’899 patents are not invalid.

On October 27, 2009, Qimonda filed a petition for review of the ID. Qimonda did not petition for review of the ALJ’s finding of no violation of section 337 as to the ’670 patent. Thus, only three patents – the ’434, ’899, and ’918 patents – remain in suit. On November 5, 2009, the Respondents and IA filed responses to Qimonda’s petition.

Having examined the record of this investigation, including the ALJ’s final ID, the petition for review, and the responses thereto, the Commission has determined to review the final ID in part. Specifically, the Commission has determined to review and to take no position on whether U.S. Patent No. 6,424,051 to Shinogi anticipates, under 35 U.S.C. § 102, any of the asserted claims of the ’918 patent. *See Beloit Corp. v. Valmet Oy*, 742 F.2d 1421, 1422-23 (Fed. Cir. 1984).

The Commission has determined not to review the remainder of the ID. Accordingly, the Commission has terminated this investigation with a finding of no violation.

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 C.F.R. §§ 210.42-46).

By order of the Commission.

/s/
Marilyn R. Abbott
Secretary to the Commission

Issued: January 29, 2010