

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

**In the Matter of**

**CERTAIN DATA STORAGE  
PRODUCTS AND COMPONENTS  
THEREOF**

**Inv. No. 337-TA-748**

**NOTICE OF INVESTIGATION**

AGENCY: U.S. International Trade Commission

ACTION: Institution of investigation pursuant to 19 U.S.C. § 1337

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on October 20, 2010, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, on behalf of Data Network Storage, LLC of Newport Beach, California. A supplement to the complaint was filed on November 10, 2010. The complaint as supplemented alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain data storage products and components thereof by reason of infringement of certain claims of U.S. Patent No. 6,098,128 (“the ‘128 patent”). The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue an exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is 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., Room 112, Washington, D.C. 20436, telephone 202-205-2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 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>.

FOR FURTHER INFORMATION CONTACT: Jeffrey T. Hsu, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205-2571.

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.10 (2010).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on November 17, 2010, ORDERED THAT –

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain data storage products and components thereof that infringe one or more of claims 1-8 of the '128 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

Data Network Storage, LLC  
500 Newport Center Drive, 7<sup>th</sup> Floor  
Newport Beach, CA 92660

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

NetApp, Inc.  
495 East Java Drive  
Sunnyvale, CA 94089

Dell, Inc.  
One Dell Way  
Round Rock, TX 78682

Xyratex, Ltd.  
46831 Lakeview Blvd  
Fremont, CA 94538

Xyratex International Inc.  
855 Riverside Parkway, Suite 40  
West Sacramento, CA 95605

Xyratex (Malaysia) Sdn Bhd  
No. C-7-2 (Level 2) Bay Avenue  
Lorong Bayan Indah 3  
11900 Penang, Malaysia

Dot Hill Systems Corp.  
1351 S. Sunset Street  
Longmont, CO 80501

International Business Machines Corporation  
One New Orchard Road  
Armonk, NY 10504

Cisco Systems, Inc.  
170 West Tasman Drive  
San Jose, CA 95134

QNAP Systems, Inc.  
166 University Parkway  
Pomona, CA 91768

(c) The Commission investigative attorney, party to this investigation, is Jeffrey T. Hsu, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Suite 401, Washington, D.C. 20436; and

(3) For the investigation so instituted, the Honorable Paul J. Luckern, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.13. Pursuant to 19 C.F.R. §§ 201.16(d)-(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination

containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

/s/  
Marilyn R. Abbott  
Secretary to the Commission

Issued: November 18, 2010