

**UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC**

In the Matter of

**CERTAIN NON-VOLATILE MEMORY
CHIPS AND PRODUCTS CONTAINING
THE SAME**

Inv. No. 337-TA-916

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW
AN INITIAL DETERMINATION TERMINATING THE INVESTIGATION
BASED ON A SETTLEMENT AGREEMENT**

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. 30) granting a joint motion to terminate the above-captioned investigation based on a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Clark S. Cheney, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C., 20436, telephone (202) 205-2661. Copies of all 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, 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 the matter can be obtained by contacting the Commission’s TDD terminal on 202-205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on June 4, 2014, based on a complaint filed by Spansion LLC (“Spansion”). 79 *Fed. Reg.* 32312-13 (June 4, 2014). The complaint alleged 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 chips and products containing the same by reason of infringement of four U.S. patents. The notice of investigation named as respondents Macronix International Co., Ltd.; Macronix Asia Limited; Macronix (Hong Kong) Co., Ltd.; Macronix America, Inc. (collectively, “Macronix”); Acer Inc.; Acer America Corp.; ADT-Corp.; Amazon.com, Inc.; ASRock Inc.; ASRock America, Inc.;

ASUSTeK Computer Inc.; Asus Computer International; Belkin International, Inc.; D-Link Corporation; D-Link Systems, Inc.; Leap Motion, Inc.; Lowe's Companies, Inc.; Lowe's Home Centers, LLC (f/k/a Lowe's Home Centers, Inc.); Microsoft Corp.; Nintendo Co., Ltd.; Nintendo of America, Inc.; Sercomm Corporation; Vonage Holdings Corp.; Vonage America Inc.; and Vonage Marketing LLC.

On January 29, 2015, Spansion and all respondents filed an unopposed motion to terminate the investigation based on a settlement agreement between Spansion and Macronix. On the same day, Spansion and Macronix filed a joint motion to limit service of their settlement agreement pursuant to Commission Rule 210.21(b)(1). On February 9, 2015, Commission investigative attorney Monisha Deka ("IA") filed a response in support of both motions.

On February 18, 2015, the ALJ issued the subject ID granting both motions and terminating the investigation. The ALJ noted the parties' assertion that the settlement agreement between Spansion and Macronix fully resolves the investigation with respect to all respondents and that there are no other agreements between the parties concerning the subject matter of this investigation. The ALJ further found no evidence that termination based on the settlement agreement would impose any undue burdens on public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, or U.S. consumers. To the contrary, the ALJ found that termination is in the public interest because it would avoid needless litigation and conserve public resources.

The ALJ found that Spansion and Macronix filed a confidential and public version of the settlement agreement in compliance with Commission Rule 210.21(b). The ALJ additionally found that because the settlement agreement at issue is confidential between Spansion and Macronix, there was good cause to limit service of that agreement to Spansion, the Macronix respondents, and the IA. No petitions for review of the ID were filed.

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.



Lisa R. Barton
Secretary to the Commission

Issued: March 12, 2015