

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 (<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 this investigation on July 26, 2002, based on a complaint filed by U.S. Philips Corporation of Tarrytown, NY ("Philips" or "complainant"). 67 FR 48948 (2002). The complaint, as supplemented, alleged violations of section 337 of the Tariff Act of 1930 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain recordable compact discs and rewritable compact discs by reason of infringement of certain claims of six U.S. patents: claims 1, 5, and 6 of U.S. Patent No. 4,807,209; claim 11 of U.S. Patent No. 4,962,493; claims 1, 2, and 3 of U.S. Patent No. 4,972,401; claims 1, 3, and 4 of U.S. Patent No. 5,023,856; claims 1-5, and 6 of U.S. Patent No. 4,999,825; and claims 20, 23-33, and 34 of U.S. Patent No. 5,418,764. 67 FR 48948 (2002).

The notice of investigation named 19 respondents, including GigaStorage Corporation Taiwan of Hsinchu, Taiwan; GigaStorage Corporation USA of Livermore, California (collectively, "GigaStorage"); and Linberg Enterprise Inc. ("Linberg") of West Orange, New Jersey. 67 FR 48,948 (2002). On August 14, 2002, the ALJ issued an ID (Order No. 2) granting a motion to intervene as respondents by Princo Corporation of Hsinchu, Taiwan, and Princo America Corporation of Fremont, California (collectively, "Princo"). That ID was not reviewed by the Commission. GigaStorage, Linberg, and Princo ("respondents") are the only remaining active respondents in this investigation. See ALJ Order No. 6 (an unreviewed ID terminating eight respondents on the basis of a consent order); ALJ Order No. 17 (an unreviewed ID terminating each of three respondents on the basis of a consent order and settlement agreement); ALJ Order No. 18 (an unreviewed ID terminating one

respondent on the basis of a consent order and settlement agreement); and ALJ Order No. 21 (an unreviewed ID finding four respondents in default).

On April 7, 2003, the ALJ issued an ID (ALJ Order No. 20) granting complainant's unopposed motion for summary determination that Linberg, GigaStorage, and Princo have each sold for importation, imported, and/or sold after importation products accused of infringing one or more of the asserted patent claims. That ID was not reviewed by the Commission.

A tutorial session was held on June 3, 2003, and an evidentiary hearing was held from June 10, 2003, through June 20, 2003.

On June 30, 2003, the ALJ issued an order (ALJ Order No. 32) granting a motion *in limine* filed by respondents to preclude complainant from asserting the doctrine of unclean hands with respect to respondents' affirmative defense of patent misuse.

The ALJ issued his final ID on October 24, 2003. Although he found that none of the asserted claims are invalid, that the accused products infringe the asserted claims, and that the domestic industry requirement of section 337 has been satisfied, he found no violation of section 337 because he concluded that all of the asserted patents are unenforceable by reason of patent misuse.

On November 5, 2003, complainant Philips petitioned for review of the portion of the final ID that found the asserted patents unenforceable due to patent misuse, and also appealed ALJ Order No. 32. On the same day, respondents filed a paper entitled "Statement of Respondents Princo Corp., Princo America Corp., Gigastorage Corp. Taiwan, Gigastorage Corp. USA, and Linberg Enterprises, Inc. Regarding the Initial Determination," in which respondents urged the Commission to adopt the ID in its entirety. Respondents and the IA filed responses to complainant's petition for review.

On December 8, 2003, the ALJ issued his recommended determination on remedy and bonding.

On December 10, 2003, the Commission determined to affirm ALJ Order No. 32, and to review all of the ID's findings of fact and conclusions of law concerning patent misuse. The Commission determined not to review the remainder of the ID.

In its review notice, the Commission invited the parties to file written submissions on the issues under review, and invited interested persons to file written submissions on the issues of remedy, the public interest, and

bonding. The Commission also requested briefing from the parties on four questions. Initial submissions were filed on January 9, 2004, and replies were filed on January 16, 2004, and on January 20, 2004.

Having reviewed the record in this investigation, including the parties' written submissions, the Commission determined to affirm the ALJ's conclusion that the asserted patents are unenforceable for patent misuse *per se*, but on the ground that complainant's practice of mandatory package licensing constitutes a tying arrangement between licenses to patents that are essential to manufacture CD-Rs or CD-RWs according to Orange Book standards and licenses to other patents that are not essential to that activity.<sup>1</sup> The Commission determined to adopt the ALJ's conclusion that the asserted patents are unenforceable for patent misuse under a rule of reason standard based on the ALJ's analysis of and findings as to the tying arrangement.<sup>2</sup> We affirm the ALJ's conclusion that the patent misuse has not been shown to have been purged.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.45 of the Commission's rules of practice and procedure (19 CFR 210.45).

By order of the Commission.

Issued: March 11, 2004.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. E4-610 Filed 3-16-04; 8:45 am]

**BILLING CODE 7020-02-P**

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## DEPARTMENT OF JUSTICE

### Office of Justice Programs

#### Agency Information Collection Activities: Proposed Collection; Comments Requested

**ACTION:** 60-Day Notice of Information Collection Under Review: Capital Punishment Report of Inmates Under Sentence of Death.

The Department of Justice (DOJ), Office of Justice Programs (OJP), has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with

<sup>1</sup> We take no position on the ALJ's conclusion that the asserted patents are unenforceable for patent misuse *per se* based on theories of price fixing and price discrimination.

<sup>2</sup> We take no position on the ALJ's conclusion that the royalty rate structure of the CD-R/RW patent pools is an unreasonable restraint of trade.

the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until May 17, 2004. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Thomas Bonczar, Statistician, at (202) 616-3615 or via facsimile at (202) 514-1757, Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice 810 Seventh Street NW., Washington, DC 20531.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Capital Punishment Report of Inmates Under Sentence of Death.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: NPS-8 Report of Inmates Under Sentence of Death; NPS-8A Update Report of Inmates Under Sentence of Death; NPS-8B Status of Death Penalty—No Statute in Force; and NPS-8C Status of Death Penalty—State in Force. Bureau of

Justice Statistics, Office of Justice Programs, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State Departments of Corrections and Attorneys General. Others: the Federal Bureau of Prisons. Approximately 95 respondents responsible for keeping records on inmates under sentence of death in their jurisdiction and in their custody will be asked to provide information for the following categories: condemned inmates' demographic characteristic, legal status at the time of capital offense, capital offense for which imprisoned, number of death sentences imposed, criminal history information, reason for removal and current status if no longer under sentence of death, method of execution, and cause of death by other than by execution. The Bureau of Justice Statistics uses this information in published reports; and for the U.S. Congress, Executive Office of the President, State officials, international organizations, researchers, students, the media and others interested in criminal justice statistics.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: The estimated amount of time is as follows: 171 responses at 30 minutes each for the NPS-8; 3,577 responses at 30 minutes each for the NPS-8A; and 52 responses at 15 minutes each for the NPS-8B or NPS-8C.

(6) An estimate of the total public burden (in hours) associated with the collection: There are an estimated 1,888 total annual burden hours associated with this collection.

If additional information is required contact: Brenda E. Dyer, Deputy Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: March 11, 2004.

**Brenda E. Dyer,**

*Deputy Clearance Officer, Department of Justice.*

[FR Doc. 04-5930 Filed 3-16-04; 8:45 am]

**BILLING CODE 4410-18-P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-54,317]

#### Anacom Medtek, Anaheim, California; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 20, 2004 in response to a petition filed on behalf of workers at Anacom Medtek, Anaheim, California.

The petition regarding the investigation has been deemed invalid. Consequently, the investigation has been terminated.

Signed at Washington, DC this 24th day of February 2004.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 04-6024 Filed 3-16-04; 8:45 am]

**BILLING CODE 4510-30-M**

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

#### Proposed Information Collection Request Submitted for Public Comment and Recommendations; Operations Under Water

**ACTION:** Notice.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

**DATES:** Submit comments on or before May 17, 2004.

**ADDRESSES:** Send comments to Darrin King, Chief, Records Management Branch, 1100 Wilson Boulevard, Room 2139, Arlington, VA 22203-1984. Commenters are encouraged to send their comments on a computer disk, or via Internet E-mail to [king.darrin@dol.gov](mailto:king.darrin@dol.gov), along with an original printed copy. Mr. King can be