

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

**CERTAIN FLASH MEMORY CONTROLLERS,
DRIVES, MEMORY CARDS, AND MEDIA
PLAYERS AND PRODUCTS CONTAINING
SAME**

Inv. No. 337-TA-619

NOTICE REGARDING ISSUANCE OF FINAL INITIAL DETERMINATION

(April 10, 2009)

On this date, the undersigned issued an Initial Determination on Violation of Section 337 and Recommended Determination on Remedy and Bond in the above-referenced investigation. Attached are pages 1 and 162 from said filing, which are a matter of public record. A complete public version of the Initial Determination on Violation of Section 337 and Recommended Determination on Remedy and Bond will be issued when all the parties have submitted their redactions and the undersigned has had an opportunity to review the proposed redactions.



Charles E. Bullock
Administrative Law Judge

PUBLIC VERSION

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In the Matter of

**CERTAIN FLASH MEMORY CONTROLLERS,
DRIVES, MEMORY CARDS AND MEDIA
PLAYERS, AND PRODUCTS CONTAINING SAME**

Inv. No. 337-TA-619

**INITIAL DETERMINATION ON VIOLATION OF SECTION 337 AND
RECOMMENDED DETERMINATION ON REMEDY AND BOND**

Administrative Law Judge Charles E. Bullock

(April 10, 2009)

Pursuant to the Notice of Investigation and Rule 210.42(a) of the Rules of Practice and Procedure of the United States International Trade Commission, this is the Administrative Law Judge's Initial Determination in the matter of certain flash memory controllers, drives, memory cards and media players, and products containing same, Investigation No. 337-TA-619.

The Administrative Law Judge hereby determines that a violation of Section 337 of the Tariff Act of 1930, as amended, has not been found in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain flash memory controllers, drives, memory cards, and media players and products containing same, in connection with claims 17, 24, and 30 of U.S. Patent No. 6,763,424 and claim 8 of U.S. Patent No. 7,137,011. Furthermore, the Administrative Law Judge hereby determines that a domestic industry in the United States exists that practices U.S. Patent Nos. 6,763,424 and 7,137,011.

CONCLUSIONS OF LAW

1. The Commission has subject matter jurisdiction in this investigation.
2. The Commission has personal jurisdiction over Respondents.
3. Respondents Phison, SMI, and Skymedi's accused products do not infringe claims 17, 24, or 30 of U.S. Patent No. 6,763,424 in violation of 35 U.S.C. § 271(a).
4. Respondent Imation's accused products do not infringe claim 8 of U.S. Patent No. 7,137,011 in violation of 35 U.S.C. § 271(a).
5. An industry in the United States exists with respect to SanDisk's products that is practiced by U.S. Patent Nos. 6,763,424 and 7,137,011, as required by 19 U.S.C. § 1337(a)(2) and (3).
6. Claims 17, 24, and 30 of U.S. Patent No. 6,763,424 are not invalid under 35 U.S.C. § 102 or § 103.
7. Claim 8 of U.S. Patent No. 7,137,011 is invalid under 35 U.S.C. § 103 for obviousness based on the Maniscalco prior art reference in combination with the Izawa prior art reference and the knowledge of a person of ordinary skill in the art.
8. U.S. Patent Nos. 6,763,424 and 7,137,011 are not invalid and/or unenforceable based on patent misuse, patent exhaustion, licensing, or prosecution laches.