

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

**In the Matter of**

**CERTAIN PROBE CARD ASSEMBLIES,  
COMPONENTS THEREOF AND  
CERTAIN TESTED DRAM AND NAND  
FLASH MEMORY DEVICES AND  
PRODUCTS CONTAINING SAME**

**Investigation No. 337-TA-621**

**NOTICE OF COMMISSION DECISION TO REVIEW ORDER NO. 34 AND  
CONCLUDING THAT ORDER NO. 34 IS NOT AN INITIAL DETERMINATION**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined to review Order No. 34 issued by the presiding administrative law judge (“ALJ”) in the above-captioned investigation and designated by him as an initial determination (“ID”). The Commission has concluded that Order No. 34 is not properly designated as an ID.

**FOR FURTHER INFORMATION CONTACT:** Paul M. Bartkowski, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-5432. 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 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>. 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:** This investigation was instituted on December 19, 2007, based on a complaint filed by FormFactor, Inc. (“FormFactor”) of Livermore, California. The complaint alleged violations of section 337 of the Tariff Act of 1930 (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 probe card assemblies, components thereof, and certain tested DRAM and NAND flash memory devices and products containing same by reason of infringement of certain claims of U.S. Patent Nos. 5,994,152; 6,509,751; 6,615,485 (“the ‘485 patent”); 6,624,648; 7,168,162; and 7,225,538. The complaint named Micronics Japan Co., Ltd.;

MJC Electronics Corp.; Phicom Corporation; and Phiam Corporation as respondents (collectively, “Respondents”).

On November 6, 2008, Respondents filed a joint motion for partial summary determination that no remedy is available for “any direct violation of the ‘485 patent” and for termination of the investigation with respect to “certain tested DRAM and NAND flash memory devices and products containing same of non-respondents.” FormFactor filed an opposition to the motion, and the Commission investigative attorney filed a response in partial support of the motion, on November 17, 2008. Respondents subsequently filed a motion for leave to file a reply to FormFactor’s opposition to the motion on November 25, 2008.

On November 25, 2008, the ALJ issued Order No. 34 as an ID, granting Respondents’ motion in part. No petitions for review of Order No. 34 were filed.

The Commission has determined to review Order No. 34 and has concluded that Order No. 34 is not properly designated as an ID since it relates exclusively to the issue of remedy. Commission Rule 210.42(a) provides that the question of remedy shall be addressed in a recommended determination (“RD”) at the conclusion of proceedings before the ALJ.

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 section 210.42 of the Commission’s Rules of Practice and Procedure (19 C.F.R. § 210.42).

By order of the Commission.

/s/  
Marilyn R. Abbott  
Secretary to the Commission

Issued: December 22, 2008