

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN SEMICONDUCTOR
DEVICES AND PRODUCTS
CONTAINING SAME**

Investigation No. 337-TA-525

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 August 18, 2004, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, on behalf of Taiwan Semiconductor Manufacturing Company, Ltd. of Hsinchu, Taiwan, TSMC North America of San Jose, California, and WaferTech L.L.C. of Camas, Washington. Supplements to the complaint were filed on September 7 and September 15, 2004. The complaint, as supplemented, alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain semiconductor devices and products containing same by reason of infringement of claims 1 and 11 of U.S. Patent No. 6,121,091, claims 1-6 and 8-15 of U.S. Patent No. 6,251,795, and claims 1, 2, 5, 6, 15, and 16 of U.S. Patent No. 6,235,653, and also by reason of misappropriation of trade secrets, the threat or effect of which is to destroy or substantially injure an industry in the United States. The complaint further alleges that there exists an industry in the United States with respect to the asserted intellectual property rights.

The complainants request that the Commission institute an investigation and, after the investigation, issue a permanent limited exclusion order and a permanent cease and desist order.

ADDRESSES: The complaint and supplements, except for any confidential information contained therein, are 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: Jay H. Reiziss, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202-205-2579.

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 (2004).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on September 14, 2004, ORDERED THAT --

- (1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine:
 - (a) 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 semiconductor devices or products containing same by reason of infringement of claims 1 or 11 of U.S. Patent No. 6,121,091, claims 1-6, 8-14, or 15 of U.S. Patent No. 6,251,795, or claims 1, 2, 5, 6, 15, or 16 of U.S. Patent No. 6,235,653, and whether an industry in the United States exists as required by subsection (a)(2) of section 337; and
 - (b) whether there is a violation of subsection (a)(1)(A) of section 337 in the importation into the United States of certain semiconductor devices or products containing same or in the sale of such articles by reason of misappropriation of trade secrets, the threat or effect of which is to destroy or substantially injure an industry in the United States.
- (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 complainants are --

Taiwan Semiconductor Manufacturing Company, Ltd.
8 Li-Hsin Road 6
Hsinchu Science Park
Hsinchu, Taiwan

TSMC North America
2585 Junction Ave.
San Jose, California 94134

WaferTech L.L.C.
5509 N.W. Parker Street
Camas, Washington 98607

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

Semiconductor Manufacturing International Corporation
No. 18 Zhangjiang Road
Pudong New Area, Shanghai 201203
China

Semiconductor Manufacturing International (Shanghai) Corporation
No. 18 Zhangjiang Road
Pudong New Area, Shanghai 201203
China

SMIC Americas
45757 Northport Loop West
Fremont, California 94538

- (c) Jay H. Reiziss, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Room 401-D, Washington, D.C. 20436, who shall be the Commission investigative attorney, party to this investigation; and

- (3) For the investigation so instituted, the Honorable Sidney Harris is designated as 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) and 210.13(a), such responses will be considered by the Commission if received no later than 20 days after the date of service by the Commission of the complaint and notice of investigation. Extensions of time for submitting responses to the complaint 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 both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against such respondent.

By order of the Commission.

/s/

Marilyn R. Abbott
Secretary to the Commission

Issued: September 16, 2004