

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN SEMICONDUCTOR CHIPS AND
PRODUCTS CONTAINING SAME**

Investigation No. 337-TA-753

**NOTICE OF COMMISSION DETERMINATION
TERMINATING THE INVESTIGATION
WITH A FINDING OF NO VIOLATION OF SECTION 337**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to terminate the above-captioned investigation with a finding of no violation of section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337.

FOR FURTHER INFORMATION CONTACT: Sidney A. Rosenzweig, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-2532. 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: The Commission instituted this investigation on January 4, 2011, based on a complaint filed by Rambus Inc. of Sunnyvale, California ("Rambus"), alleging a violation of section 337 in the importation, sale for importation, and sale within the United States after importation of certain semiconductor chips and products containing the same. 76 *Fed. Reg.* 384 (Jan. 4, 2011). The complaint alleged the infringement of various claims of patents including U.S. Patent Nos. 6,470,405; 6,591,353; 7,287,109 (collectively, "the Barth patents"); and Nos. 7,602,857; and 7,715,494 (collectively, "the Dally patents"). The Barth patents share a common specification, as do the Dally patents. The notice of investigation named as respondents Freescale Semiconductor of Austin, Texas ("Freescale"); Broadcom Corp. of

Irvine, California (“Broadcom”); LSI Corporation of Milpitas, California (“LSI”); Mediatek Inc. of Hsin-Chu, Taiwan (“Mediatek”); NVIDIA Corp. of Santa Clara, California (“NVIDIA”); STMicroelectronics N.V. of Geneva, Switzerland; and STMicroelectronics Inc. of Carrollton, Texas (collectively, “STMicro”), as well as approximately twenty customers of one or more of these respondents.

The investigation has since been terminated against many of the respondents on the basis of Rambus’s settlements with Broadcom, Freescale, MediaTek, and NVIDIA.

LSI and STMicro are the only two manufacturer respondents remaining. With them as respondents are their customers Asustek Computer, Inc. and Asus Computer International, Inc.; Cisco Systems, Inc.; Garmin International Inc.; Hewlett-Packard Company; Hitachi Global Storage Technologies; and Seagate Technology.

On March 2, 2012, the ALJ issued the final ID. The ID found no violation of section 337 for several reasons. All of the asserted claims were found to be invalid or obvious in view of the prior art under 35 U.S.C. § 102 or 103. The Barth patents were found to be unenforceable under the doctrine of unclean hands by virtue of Rambus’s destruction of documents. The ID also found that Rambus had exhausted its rights under the Barth patents as to certain products of one respondent. The ID found that all of the asserted patent claims were infringed, and rejected numerous affirmative defenses raised by the respondents.

On March 19, 2012, Rambus, the respondents and the Commission investigative attorney (“IA”) each filed a petition for review of the ID. On March 27, 2012, these parties each filed a response to the others’ petitions.

On May 3, 2012, the Commission determined to review the ID in its entirety. *77 Fed. Reg.* 27,249 (May 9, 2012). The notice of review asked the parties to brief certain questions.

Having examined the record of this investigation, including the ALJ’s final ID, the petitions for review and the responses thereto, and the briefing in response to the notice of review, the Commission has determined to terminate the investigation with a finding of no violation of section 337.

The Commission has determined to find no violation of section 337 for the following reasons: We affirm the ALJ’s conclusion that all of the asserted patent claims are invalid under 35 U.S.C. § 102 or 103, except for the asserted Dally multiple-transmitter claims (’857 claims 11-13, 32-34, 50-52), for which we find that Rambus has not demonstrated infringement. We reverse the ALJ’s determination that Rambus has demonstrated the existence of a domestic industry under 19 U.S.C. § 1337(a) for both the Barth patents and Dally patents. We affirm the ALJ’s determination that the Barth patents are unenforceable under the doctrine of unclean hands. We affirm the ALJ’s finding of exhaustion of the Barth patents as to one respondent. The Commission’s determinations, including non-dispositive findings not recited above, will be set forth more fully in the Commission’s opinion.

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 sections 210.21, 210.42-46 and 210.50 of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.21, 210.42-46 and 210.50).

By order of the Commission.

/s/

Lisa R. Barton
Acting Secretary to the Commission

Issued: July 25, 2012