

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

In the Matter of

**CERTAIN AUTOMATED MEDIA
LIBRARY DEVICES**

Investigation No. 337-TA-746

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION EXTENDING THE TARGET DATE BY FOUR MONTHS**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's ("ALJ") initial determination ("ID") (Order No. 39) extending the target date for completion of the above-captioned investigation by approximately four months to September 24, 2012.

FOR FURTHER INFORMATION CONTACT: Amanda S. Pitcher, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 705-2737. 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 November 24, 2010, based upon a complaint filed by Overland Storage of San Diego, California on October 19, 2010, and supplemented on November 9, 2010. *75 Fed. Reg.* 71,735 (Nov. 24, 2010). The complaint alleged violations of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in the for importation, importation, or sale after importation of certain automated media library devices by reason of infringement of certain claims of U.S. Patent Nos. 6,328,766 and 6,353,581. The notice of investigation named as respondents BDT AG of Rottweil, Germany, BDT Solutions GmbH & Co. KG of Rottweil, Germany, BDT Automation Technology (Zhuhai FTZ), Co., Ltd. Zhuhai Guandang, China, BDT de Mexico, S. de R.L. de C.V., of Jalisco, Mexico, and BDT Products, Inc., of Irvine, California (collectively, "the BDT Respondents"); Dell Inc. of Round Rock, Texas ("Dell"); and International Business Machines Corp. of Armonk, New York

(“IBM”). IBM and Dell were terminated from the investigation. *See* Notice of Commission Determination to Affirm an Initial Determination Granting a Joint Motion For Termination of the Investigation by Settlement as to Respondents International Business Machines Corp. and Dell Inc. (Jan. 27, 2012).

On December 16, 2011, the BDT Respondents moved for leave to file an amended answer to the complaint, supplement their exhibit list with the Overland-IBM settlement agreements and to supplement their responses to interrogatories. The motion was granted in-part on January 10, 2012. Order No. 38. In order not to prejudice the Complainant, the ALJ “reopened the record to allow limited discovery on the issue of patent exhaustion and directed the parties to meet and confer to agree upon a procedural schedule, including dates for supplemental discovery, a hearing (if necessary), and supplemental post-hearing briefing.” Order No. 39 at 1-2. The Complainant and the BDT Respondents agreed to a four month extension of the target date and the ALJ issued Order No. 39 extending the target date by approximately four months to September 24, 2012 and his final initial determination to May 24, 2012. No one petitioned for review of this ID.

The Commission has determined not to review the ID.

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/
James R. Holbein
Secretary to the Commission

Issued: February 7, 2012