

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

In the Matter of

**CERTAIN FLASH MEMORY CHIPS AND
PRODUCTS CONTAINING SAME**

Investigation No. 337-TA-664

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION GRANTING-IN-PART COMPLAINANTS' MOTION
FOR LEAVE TO AMEND THE AMENDED COMPLAINT**

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 an initial determination ("ID") (Order No. 57) of the presiding administrative law judge ("ALJ") granting-in-part complainants' motion for leave to amend the amended complaint.

FOR FURTHER INFORMATION CONTACT: Panyin A. Hughes, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3042. 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 December 18, 2008, based on a complaint filed by Spansion, Inc. of Sunnyvale, California and Spansion LLC of Sunnyvale, California (collectively, "Spansion"). 74 *Fed. Reg.* 77059-061 (Dec. 18, 2008). The complaint alleges 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 flash memory chips and products containing the same by reason of infringement of various claims of United States Patent Nos. 6,380,029 (subsequently terminated from the investigation); 6,080,639 (subsequently terminated from the investigation); 6,376,877; and 5,715,194. The complaint names over thirty respondents. On March 12, 2010, the complaint and notice of investigation were amended to terminate several

respondents from the investigation and to add certain entities as respondents. *75 Fed. Reg.* 11909-910 (Mar. 12, 2010).

On March 25, 2010, Spansion moved for leave to amend the amended complaint. Specifically, Spansion sought leave to include three license agreements in its complaint. On April 23, 2010, the ALJ issued the subject ID (Order No. 57) granting Spansion's motion in part. The ALJ concluded that, pursuant to Commission Rule 210.14(b)(1) (19 C.F.R. § 210.14(b)(1)), good cause exists to amend the amended complaint to include two of the license agreements. However, the ALJ declined to include the third agreement, finding that Spansion violated Commission Rule 210.12(9) (19 C.F.R. § 210.12(9)), which required identifying that agreement in Spansion's original complaint. None of the parties petitioned for review of the 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/
Marilyn R. Abbott
Secretary to the Commission

Issued: May 17, 2010