

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

In the Matter of	)	
	)	
CERTAIN DISPLAY CONTROLLERS	)	Inv. No. 337-TA-491
AND PRODUCTS CONTAINING SAME	)	Inv. No. 337-TA-481
	)	(consolidated)
and	)	Enforcement Proceeding
	)	
CERTAIN DISPLAY CONTROLLERS WITH	)	
UPSCALING FUNCTIONALITY AND	)	
PRODUCTS CONTAINING SAME	)	
	)	

**NOTICE OF INSTITUTION OF FORMAL ENFORCEMENT PROCEEDING**

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

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has instituted a formal enforcement proceeding relating to a limited exclusion order issued at the conclusion of the above-captioned investigation.

**FOR FURTHER INFORMATION CONTACT:** Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, D.C. 20436, telephone (202) 205-3061. Copies of all nonconfidential 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 SW., Washington, D.C. 20436, telephone 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<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 the matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted Inv. No. 337-TA-481, *Certain Display Controllers with Upscaling Functionality and Products Containing Same* ("Display Controllers I" or "481 investigation") on October 18, 2002, based on a complaint filed by Genesis Microchip (Delaware) Inc. ("Genesis") of Alviso, California naming Media Reality Technologies, Inc. of Sunnyvale, California ("MRT"); Trumpion Microelectronics, Inc. ("Trumpion") of Taipei City, Taiwan; and SmartASIC, Inc. of San Jose, California ("SmartASIC") as respondents. 67 Fed. Reg. 64411. The complaint, as supplemented, alleged violations of section 337 of the Tariff Act of 1930 in the importation into the United States, sale

for importation, and sale within the United States after importation of certain display controllers with upscaling functionality and products containing same by reason of infringement of certain claims of U.S. Patent No. 5,739,867 (“the ‘867 patent”). *Id.* On January 14, 2003, the then presiding administrative law judge (“ALJ”) issued an initial determination (“ID”) terminating respondent SmartASIC from the investigation on the basis of a settlement agreement. That ID was not reviewed by the Commission.

The final ID in *Display Controllers I* (“the 481 Final ID”) issued on October 20, 2003. 68 *Fed. Reg.* 69719 (Dec. 15, 2003). On December 5, 2003, the Commission determined to review the 481 Final ID in part. *Id.* On review of the 481 Final ID, the Commission determined to reverse portions of the ALJ’s claim construction and to remand *Display Controllers I* to the ALJ. 69 *Fed. Reg.* 3602 (Jan. 26, 2004).

The Commission instituted Inv. No. 337-TA-491, *Certain Display Controllers and Products Containing Same* (“*Display Controllers II*” or “491 investigation”) on April 14, 2003, based on a complaint filed on behalf of Genesis. 68 *Fed. Reg.* 17964 (Apr. 14, 2003). The complaint, as supplemented, alleged violations of section 337 of the Tariff Act of 1930 in the importation into the United States, sale for importation, and sale within the United States after importation of certain display controllers and products containing same by reason of infringement of certain claims of U.S. Patent No. 6,078,361; certain claims of U.S. Patent No. 5,953,074 (“the ‘074 patent”); and certain claims of U.S. Patent No. 6,177,922 (“the ‘922 patent”). The notice of investigation named three respondents: Media Reality Technologies, Inc. of Taipei, Taiwan; MRT; and Trumpion. *Id.* Both Trumpion and MRT were also named respondents in *Display Controllers I*.

On June 20, 2003, the ALJ issued an ID (Order No. 5) amending the complaint and notice of investigation in *Display Controllers II* to add MStar Semiconductor, Inc. (“MStar”) as a respondent, additional claims of the ‘074 patent, and certain claims of the ‘867 patent, which was asserted in the 481 investigation. That ID was not reviewed by the Commission. 68 *Fed. Reg.* 44967 (July 31, 2003).

On November 10, 2003, the ALJ issued an ID (Order No. 38) granting complainant’s motion to terminate the *Display Controllers II* investigation with respect to Trumpion. In the same ID the ALJ terminated the investigation with respect to the ‘922 patent and the ‘074 patent. That ID was not reviewed by the Commission.

On April 14, 2004, the ALJ issued his final ID (“the 491 Final ID”) and recommended determination on remedy and bonding in *Display Controllers II*. The ALJ found a violation of section 337 in the 491 Final ID with respect to respondent MStar, but no violation with respect to respondent MRT.

On May 20, 2004, the ALJ issued an ID on remand in *Display Controllers I* (“the 481 Remand ID”). The ALJ found a violation of section 337 in the 481 Remand ID with respect to

both respondents in *Display Controllers I*, MRT and Trumpion.

On May 21, 2004, the Commission issued an order consolidating the 481 and 491 investigations. On July 6, 2004, the Commission determined to review portions of the 481 Remand ID and portions of the 491 Final ID. 69 *Fed. Reg.* 41846.

On August 20, 2004, the Commission issued a limited exclusion order in which the Commission determined that there was a violation of Section 337 in the unlawful importation and sale by respondents MRT, Trumpion, and MStar of display controllers and products containing same by reason of infringement of, *inter alia*, claims 2, 33-35, and 36 of the '867 patent. On August 27, 2004, the Commission issued its Opinion ("the 481/491 Opinion," or "Consolidated Opinion") in which it explained the basis for its determination. MStar appealed the Commission's determination on violation relating to the '867 patent to the U.S. Court of Appeals for the Federal Circuit. The Commission's determination was affirmed on May 25, 2006. *MStar v. U.S. Int'l Trade Comm'n*, 2006 WL 1476137 (Fed. Cir. 2006).

On April 24, 2006, complainant Genesis filed a complaint for enforcement proceedings under Commission Rule 210.75. Genesis asserts that respondent MStar has violated the Commission's limited exclusion order by importing its Tsunami display controllers into the United States.

The Commission, having examined the complaint seeking a formal enforcement proceeding, and having found that the complaint complies with the requirements for institution of a formal enforcement proceeding contained in Commission rule 210.75, has determined to institute formal enforcement proceedings to determine whether MStar is in violation of the Commission's limited exclusion order issued in the investigation, and what, if any, enforcement measures are appropriate. The Commission has directed the ALJ not to consider Genesis' request for monetary penalties for any violation of the limited exclusion order in light of *Certain Lens-Fitted Film Packages*, Inv. No. 337-TA-406 (Consolidated Enforcement and Advisory Opinion Proceedings) Commission Opinion at 12 (June 23, 2003). The following entities are named as parties to the formal enforcement proceeding: (1) complainant Genesis, (2) respondent MStar, and (3) a Commission investigative attorney to be designated by the Director, Office of Unfair Import Investigations.

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 210.75 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.75).

By order of the Commission.

/s/

Marilyn R. Abbott  
Secretary to the Commission

Issued: June 23, 2006