

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN DIGITAL PROCESSORS AND
DIGITAL PROCESSING SYSTEMS,
COMPONENTS THEREOF, AND
PRODUCTS CONTAINING SAME**

Investigation No. 337-TA-559

**NOTICE OF (1) COMMISSION DETERMINATION TO REVIEW AN INITIAL
DETERMINATION GRANTING IN PART RESPONDENTS' MOTION FOR
SUMMARY DETERMINATION OF NON-INFRINGEMENT OF UNITED
STATES PATENT NOS. 5,517,628 AND 6,253,313 AND (2) COMMISSION
DETERMINATION ON REVIEW**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review the presiding administrative law judge's ("ALJ") initial determination ("ID") (Order No. 15), granting in part respondents' motion for summary determination of non-infringement with regard to United States Patent Nos. 5,517,628 ("the '628 patent") and 6,253,313 ("the '313 patent"), and that, on review, the Commission has determined to affirm-in-part and vacate-in-part the ALJ's claim construction, vacate the ALJ's determinations that there are no genuine issues of material fact and that there is no infringement, and remand this matter for further proceedings.

FOR FURTHER INFORMATION CONTACT: Michelle Walters, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-5468. 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 17, 2006, based on a complaint filed by Biax Corporation (“Biax”) of Boulder, Colorado, alleging a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in the importation into the United States, sale for importation, or sale within the United States after importation of certain digital processors and digital processing systems, components thereof, and products containing the same by reason of infringement of claims 3, 4, 6, 8-12, and 36 of United States Patent No. 5,021,945 (“the ‘945 patent”), claims 18-20, 23, and 25-27 of the ‘628 patent, and claims 3-11, 13, 14, 19, and 21-25 of the ‘313 patent. The amended complaint names Philips Semiconductors B.V. of the Netherlands; Philips Semiconductors, Inc. of San Jose, California; Philips Consumer Electronics B.V. of the Netherlands; Philips Electronics North America Corp. of Atlanta, Georgia (collectively, “Philips”); and 2Wire, Inc. (“2Wire”) of San Jose, California, as respondents.

On August 7, 2006, Philips moved for summary determination of non-infringement of the ‘945 patent, the ‘628 patent, and the ‘313 patent. Respondent 2Wire filed a motion joining Philips’ motion for summary determination. The Commission investigative attorney (“IA”) and Biax opposed the motion for summary determination.

On October 4, 2006, the ALJ issued an ID, granting respondents’ motion for summary determination of non-infringement with regard to claims 19, 20, 23, and 25-27 of the ‘628 patent and claims 3-11, 13, 14, 19, and 21-25 of the ‘313 patent, but denying the motion with regard to claim 18 of the ‘628 patent. The ‘945 patent was addressed in another ID. On October 12, 2006, Biax and the IA filed petitions for review of the ALJ’s determination. On October 19, 2006, Philips and 2Wire filed a combined response to Biax’s and the IA’s petitions. On the same day, the IA filed a response to Biax’s petition.

Having examined the relevant parts of the record of this investigation, the Commission has determined to review the ALJ’s ID, granting respondents’ motion for summary determination of non-infringement with regard to claims 19, 20, 23, and 25-27 of the ‘628 patent and claims 3-11, 13, 14, 19, and 21-25 of the ‘313 patent, and on review, the Commission has determined to (1) affirm the ALJ’s claim construction of the phrase “register file of at least two registers,” (2) vacate the ALJ’s claim construction of the phrases “register file of at least two condition code registers” and “condition storage,” (3) vacate the ALJ’s determination that there are no genuine issues of material fact, (4) vacate the ALJ’s determination of no infringement, and (5) remand this matter to the ALJ for further proceedings.

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 210.43 and 210.45(c) of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.43 and 210.45(c)).

By order of the Commission.

/s/

Marilyn R. Abbott
Secretary to the Commission

Issued: November 20, 2006