

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

In the Matter of

**CERTAIN SEMICONDUCTOR
INTEGRATION CIRCUITS USING
TUNGSTEN METALLIZATION AND
PRODUCTS CONTAINING SAME**

Investigation No. 337-TA-648

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW AN
INITIAL DETERMINATION TERMINATING THE INVESTIGATION AS TO
FREESCALE SEMICONDUCTOR, INC.**

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. 27) of the presiding administrative law judge (“ALJ”) terminating the above-captioned investigation under section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) as to Freescale Semiconductor, Inc. (“Freescale”) based on a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-2310. 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 May 21, 2008 based on a complaint filed on April 18, 2008, by LSI Corporation of Milpitas, California and Agere Systems Inc. of Allentown, Pennsylvania (collectively “complainants”). 73 *Fed. Reg.* 29534-35 (May 21, 2008). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 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 semiconductor integrated circuits using tungsten metallization and products containing same by reason of infringement of claim 1 of U.S. Patent No. 5,227,335. The complaint named numerous

respondents including Freescale of Austin, Texas. The complaint further alleged that an industry in the United States exists as required by subsection (a)(2) of section 337.

On September 2, 2008, the Commission issued notice of its determination not to review an ID granting the motion of complainants, respondent NXP B.V., and proposed respondent NXP Semiconductors USA, Inc. (“NXP Semiconductors”) of San Jose, California to amend the complaint and notice of investigation to substitute NXP Semiconductors for NXP B.V. *73 Fed. Reg.* 52064-65 (Sept. 9, 2008). On October 8, 2008, the Commission issued notice of its determination not to review an ID granting motion of complainants, respondent Micronas AG, and proposed respondent Micronas GmbH (“Micronas”) of Germany to amend the complaint and notice of investigation to substitute Micronas GmbH for Micronas AG. *73 Fed. Reg.* 61168-69 (Oct. 15, 2008). On October 17, 2008, the Commission issued notice of its determination not to review an ID granting the motion of complainants to amend the complaint to add five additional respondents: (1) Dongbu HiTek Semiconductor Business of Korea; (2) Jazz Semiconductor of Newport Beach, California; (3) Magnachip Semiconductor of Korea; (4) Qimonda AG of Germany; and (5) Tower Semiconductor, Ltd. of Israel. *73 Fed. Reg.* 63195 (Oct. 23, 2008)

Also, on November 19, 2008, the Commission issued notice of its determination not to review an ID granting, in-part, the motion of complainants to amend the complaint and notice of investigation to add two patent claims - dependent claims 3 and 4 - to the investigation which made new infringement allegations against the following respondents: (1) Freescale; (2) United Microelectronics Corp. (“UMC”); (3) Integrated Device Technology, Inc. (“IDT”); (4) AMIC Technology Corp. (“AMIC”); (5) Cypress Semiconductor Corp. (“Cypress”); (6) Grace Semiconductor Manufacturing Corp. (“Grace”); (7) Microchip Technology, Inc. (“Microchip”); (8) Micronas; (9) Nanya Technology Corp. (“Nanya”); (10) NXP Semiconductors; (11) Powerchip Semiconductor (“Powerchip”); (12) ProMOS Technologies, Inc. (“ProMOS”); (13) Spansion, Inc. (“Spansion”); and (14) Vanguard International Semiconductor Corp. (“Vanguard”). The ALJ denied the motion as to respondents UMC, AMIC, Microchip, Micronas, Nanya, NXP, Powerchip, ProMOS, and Spansion regarding claim 3, and as to respondents UMC, IDT, AMIC, Cypress, Freescale, Grace, Microchip, Micronas, NXP, Powerchip, ProMOS, Spansion, and Vanguard regarding claim 4. *73 Fed. Reg.* 71044-45 (November 24, 2008). On December 8, 2008, the Commission issued notice of its determination not to review an ID extending the target date for completion of the investigation to January 21, 2010.

On October 28, 2008, complainants and Freescale filed a joint motion to terminate the investigation as to Freescale on the basis of a settlement agreement. The Commission investigative attorney filed a response in support of the motion on November 7, 2008.

The ALJ issued the subject ID on December 4, 2008, granting the joint motion for termination. No party petitioned for review of the ID pursuant to 19 C.F.R. § 210.43(a), and the Commission found no basis for ordering a review on its own initiative pursuant to 19 C.F.R. § 210.44. 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 sections 210.14 and 210.42(h) of the Commission's Rules of Practice and Procedure, 19 C.F.R. §§ 210.14, 210.42(h).

By order of the Commission.

/s/

Marilyn R. Abbott
Secretary to the Commission

Issued: December 22, 2008