

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

In the Matter of

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

Investigation No. 337-TA-648

**NOTICE OF COMMISSION DECISION TO REVIEW A REMAND INITIAL
DETERMINATION OF THE ADMINISTRATIVE LAW JUDGE AND ON REVIEW, TO
REVERSE THE REMAND INITIAL DETERMINATION FINDING CLAIM 4 OF U.S.
PATENT NO. 5,227,335 NOT OBVIOUS; TO AFFIRM-IN-PART, REVERSE-IN-PART,
AND MODIFY-IN-PART A FINAL INITIAL DETERMINATION FINDING NO
VIOLATION OF SECTION 337; AND TO TERMINATE THE INVESTIGATION WITH
A FINDING OF NO VIOLATION**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to reverse a remand initial determination (“remand ID”) of the presiding administrative law judge (“ALJ”), and to affirm-in-part, reverse-in-part, and modify-in-part a final initial determination (“ID”) of the presiding administrative law judge (“ALJ”). The Commission has determined that there is no violation of section 337 in the above-captioned investigation, and has terminated the investigation. The Commission will issue an opinion shortly.

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. The complaint, as amended, alleged 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 the same by reason of infringement of one or more of claims 1, 3, and 4 of U.S. Patent No. 5,227,335. The amended complaint named numerous respondents. Several respondents have been terminated from the investigation due to settlement or failure to name the proper party. The following six respondents remain in the investigation: Tower Semiconductor, Ltd. (“Tower”) of Israel; Jazz Semiconductor (“Jazz”) of Newport Beach, California; Powerchip Semiconductor Corporation of Taiwan; Grace Semiconductor Manufacturing Corporation of China; Integrated Device Technology, Inc. of San Jose, California; and Nanya Technology Corporation of Taiwan. The complaint further alleged that an industry in the United States exists as required by subsection (a)(2) of section 337.

On September 21, 2009, the ALJ issued his final ID finding no violation of section 337 by the remaining respondents. On November 23, 2009, the Commission issued notice of its determination to review-in-part the ID and issued an order remanding the investigation to the ALJ for further proceedings relating to whether claim 4 is rendered obvious by IBM Process A in light of the other prior art asserted by respondents and the Commission investigative attorney (“IA”). Specifically, the Commission determined to review: (1) invalidity of claims 1, 3, and 4 of the ‘335 patent under 35 U.S.C. §§ 102(g) & 103 with respect to IBM Process A, IBM Process B, and the AMD prior art; and (2) Jazz’s stipulation regarding whether its process meets the complete, third recited step of claim 1, *i.e.*, “depositing a tungsten layer by chemical vapor deposition, said tungsten layer covering said glue layer on said dielectric and said exposed material.” The Commission determined not to review the remainder of the ID. Also, the Commission requested written submissions on the ALJ’s remand determination and responses to the written submissions, and briefing on remedy, the public interest, and bonding.

On January 15, 2010, the ALJ issued his remand ID finding that claim 4 is not rendered obvious by IBM Process A and other prior art asserted by respondents and the IA. On February 2 and 12, 2010, respectively, complainants and respondents each filed a brief and reply brief on the issues for which the Commission requested written submissions. On February 2 and 16, 2010, respectively, the IA filed a brief and a reply brief on the issues for which the Commission requested written submissions. Also, on February 12, 2010, Tower and Jazz filed a joint, separate reply brief.

Having reviewed the record in this investigation, including the remand and final IDs and the parties’ written submissions, the Commission has determined to reverse the remand ID, and affirm-in-part, reverse-in-part, and modify-in-part the final ID. The Commission has determined that there is no violation of section 337 by the remaining respondents. Particularly, the Commission has reversed the ALJ’s finding that claim 4 is invalid due to anticipation in view of

IBM Process A, but has found claim 4 to be invalid due to obviousness in view of IBM Process A in combination with the other prior art asserted by the IA and respondents. Also, the Commission has affirmed the ALJ's finding that claims 1 and 3 are invalid due to anticipation in view of IBM Process A. The Commission has also modified the ALJ's ruling that Jazz stipulated to the complete, third recited step of claim 1, and instead it has determined that Jazz's stipulation to the third step only includes the step of "depositing a tungsten layer by chemical vapor deposition." The Commission has determined to take no position on the ALJ's rulings that claims 1 and 3 are not anticipated in view of IBM Process B, claim 1 is not anticipated in view of the AMD prior art, and claims 1, 3, and/or 4 are not obvious in view of IBM Process B or the AMD prior art.

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

By order of the Commission.

Marilyn R. Abbott
Secretary to the Commission

Issued: March 22, 2010