

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

In the Matter of

**CERTAIN DYNAMIC RANDOM
ACCESS MEMORY DEVICES, AND
PRODUCTS CONTAINING SAME**

Investigation No. 337-TA-821

**COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION GRANTING COMPLAINANT'S MOTION TO TERMINATE
THE INVESTIGATION IN ITS ENTIRETY; TERMINATION OF INVESTIGATION**

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. 17) of the presiding administrative law judge ("ALJ") granting complainant's motion to terminate the above-referenced investigation in its entirety based on the withdrawal of the complaint.

FOR FURTHER INFORMATION CONTACT: Jia Chen, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-4737. 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 27, 2011 based on a complaint filed by Nanya Technology Corporation ("Nanya") of Kueishan, Taiwan. 76 *Fed. Reg.* 80964 (Dec. 27, 2011). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, by reason of infringement of certain claims of U.S. Patent Nos. 5,677,566; 6,399,983; 6,586,796; and 6,664,634. The complaint further alleges the existence of a domestic industry. The notice of investigation named as respondents Elpida Memory, Inc. of Tokyo, Japan and Elpida Memory (USA) Inc. of Sunnyvale, California (collectively "Elpida"), and Kingston Technology Co., Inc. of Fountain Valley, California.

On November 9, 2012, Nanya filed a motion to terminate this investigation in its entirety

based on the withdrawal of the complaint. Nanya asserts that good cause exists for termination because Elpida is in the process of being acquired by a third-party licensee to the patents at issue. The motion stated that there are no other agreements, written or oral, express or implied, between the parties concerning the subject matter of this investigation, other than (1) procedural agreements on service, discovery, and evidentiary issues; and (2) the parties' agreement to stipulate to subject matter jurisdiction, personal jurisdiction, importation, the admissibility of certain third-party testing, and that Nanya has title to the patents at issue.

On November 13, 2012, Elpida and Kingston filed a response opposing Nanya's motion to terminate. Respondents assert that if the motion is granted, Nanya should be required to pay respondents' expenses resulting from Nanya's delay.

On November 14, 2012, the ALJ issued the subject ID granting the motion, finding that no extraordinary circumstances exist that would prevent the requested termination and that the motion fully complies with Commission Rule 210.21. The ALJ also found termination to be in the public interest. No petitions for review were received.

The Commission has determined not to review the subject 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/
Lisa R. Barton
Secretary to the Commission

Issued: December 11, 2012