

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

**In the Matter of**

**CERTAIN DATA STORAGE SYSTEMS  
AND COMPONENTS THEREOF**

**Inv. No. 337-TA-471**

**NOTICE OF INVESTIGATION**

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

**ACTION:** Institution of investigation pursuant to 19 U.S.C. §1337

**SUMMARY:** Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 11, 2002, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. §1337, on behalf of EMC Corporation of Hopkinton, Massachusetts. Letters supplementing the complaint were filed on April 12 and 15, and May 6, 2002. The complaint as supplemented alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain data storage systems and components thereof by reason of infringement of claims 1-4 and 6-17 of U.S. Letters Patent 5,742,792, claims 1-4 and 9-13 of U.S. Letters Patent 5,544,347, claims 1, 2, 8, 9, 15, 21, and 22 of U.S. Letters Patent 6,092,066, claims 1-10 of U.S. Letters Patent 6,101,497, claims 5-8 of U.S. Letters Patent 6,108,748, and claims 1-4, 9, 11-13, 15, 17, 19, 21-23, 26, 28-30, 33-36, 42-44, 51-53, 60, 61, 65, 68, 69, 73, 76, 77, and 81 of U.S. Letters Patent 5,909,692. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a permanent exclusion order and a permanent cease and desist order.

ADDRESSES: The complaint, except for any confidential information contained therein, is 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., Room 112, Washington, D.C. 20436, telephone 202-205-2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 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-ON-LINE) at <http://dockets.usitc.gov/eol/public>.

FOR FURTHER INFORMATION CONTACT: Karin J. Norton, Esq., or Thomas S. Fusco, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202-205-2606 and 202-205-2571, respectively.

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 C.F.R. §210.10 (2001).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on May 8, 2002, ORDERED THAT –

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation, of certain data storage systems or components thereof by reason of infringement of claim 1-4, 6-16, or 17 of U.S. Letters Patent 5,742,792, claim 1-4, 9-12, or 13 of U.S. Letters Patent 5,544,347, claim 1, 2, 8, 9, 15, 21, or 22 of U.S. Letters Patent 6,092,066, claim 1-9 or 10 of U.S. Letters Patent 6,101,497, claim 5, 6, 7, or 8 of U.S. Letters Patent 6,108,748, and claim 1-4, 9, 11-13, 15, 17, 19, 21-23, 26, 28-30, 33-36, 42-44, 51-53, 60, 61, 65, 68, 69, 73, 76, 77, or 81 of U.S. Letters Patent 5,909,692, and whether an industry in the United States exists as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

EMC Corporation  
171 South Street  
Hopkinton, MA 01748-9103

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Hitachi, Ltd.  
6, Kanda-Surugadai 4-chome  
Chiyoda-ku, Tokyo  
101-8010, Japan

Hitachi Data Systems Corporation  
750 Central Expressway  
Santa Clara, CA 95050-2627

(c) Karin J. Norton, Esq., and Thomas S. Fusco, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Suite 401, Washington, D.C. 20436, who shall be the Commission investigative attorneys, party to this investigation; and

(3) For the investigation so instituted, the Honorable Paul J. Luckern is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 C.F.R. §210.13. Pursuant to 19 C.F.R. §§201.16(d) and 210.13(a), such responses will be considered by the Commission if received no later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and to authorize the administrative law judge and the Commission, without further notice to that respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against that respondent.

By order of the Commission.

Marilyn R. Abbott  
Secretary

Issued: May 9, 2002