

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN SEMICONDUCTOR CHIPS
WITH MINIMIZED CHIP PACKAGE
SIZE AND PRODUCTS CONTAINING
SAME**

Investigation No. 337-TA-605

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION GRANTING-IN-PART AND DENYING-IN-PART TESSERA,
INC.'S MOTION TO RE-OPEN THE INVESTIGATION TO INSTITUTE BOND
FORFEITURE PROCEEDINGS**

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 the presiding administrative law judge's ("ALJ") initial determination ("ID") (Order No. 68) granting-in-part and denying-in-part complainant Tessera, Inc.'s ("Tessera") motion to re-open the investigation to institute bond forfeiture proceedings.

FOR FURTHER INFORMATION CONTACT: Megan M. Valentine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-2301. 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, 2007, based on a complaint filed by Tessera of San Jose, California against Spansion, Inc. and Spansion, LLC, both of Sunnyvale, California (collectively "Spansion"); QUALCOMM, Inc. of San Diego, California ("Qualcomm"); ATI Technologies of Thornhill, Ontario, Canada ("ATI"); Motorola, Inc. of Schaumburg, Illinois ("Motorola"); STMicroelectronics N.V. of Geneva, Switzerland ("ST-NV"); and Freescale Semiconductor, Inc. of Austin, Texas ("Freescale"). 72 *Fed. Reg.* 28522 (May 21, 2007). The complaint 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 semiconductor chips with minimized chip package size

or products containing same by reason of infringement of one or more claims of U.S. Patent Nos. 5,852,326, and 6,433,419.

On May 20, 2009, the Commission issued its final disposition of the investigation, finding a violation of Section 337. *74 Fed. Reg.* 25579-81 (May 28, 2009). The Commission also issued a limited exclusion order and cease and desist orders against all respondents. On August 18, 2009, the Commission granted a joint petition by Tessera and Motorola to rescind in whole the cease and desist order directed to Motorola based upon a license agreement entered into between the two parties.

On October 16, 2009, Tessera filed a motion for forfeiture of Respondents bonds, limited discovery and evidentiary hearing pursuant to Commission Rule 210.50(d) (19 C.F.R. § 210.50(d)). On December 20, 2009, the ALJ issued Order No. 65 denying the motion as premature because an appeal of the Commission's final determination was then pending before the U.S. Court of Appeals for the Federal Circuit. The Federal Circuit ultimately upheld the Commission's determination (*see* 629 F.3d 1331 (Fed. Cir. 2010), *reh'g and reh'g en banc denied*, March 29, 2011), and on November 28, 2011, the Supreme Court denied Respondents' petitions for a writ of certiorari (*see* Supreme Court Nos. 11-127, 128).

On January 4, 2012, Tessera filed a motion to re-open the investigation to institute bond forfeiture proceedings, seeking forfeiture of the bond amounts required to have been posted by respondents Qualcomm, Freescale, Spansion, ATI, and ST-NV. Tessera also sought limited discovery and an evidentiary hearing to determine the full amount of the bonds that the respondents were required to post based on their sales of the accused products during the period of Presidential review.

On January 19, 2012, ST-NV, ATI, and Spansion each filed an opposition to Tessera's motion. On January 26, 2012, Freescale filed an opposition to the motion after being granted an extension of time. *See* Order No. 67 (Jan. 19 2012). On January 24, 2012, Tessera filed a motion for leave to file a reply and reply in support of its motion for bond forfeiture. On January 27, 2012, ATI, Spansion, and ST-NV each filed an opposition to Tessera's motion for leave, or in the alternative, for leave to file a sur-reply. On February 1, 2012, Tessera filed a motion for leave to file a reply and reply in response to Freescale's opposition, and on February 7, 2012, Freescale filed an opposition to Tessera's motion for leave.

On April 2, 2012, the ALJ issued the subject ID, granting-in-part and denying-in-part Tessera's motion to re-open the investigation to institute bond forfeiture proceedings pursuant to section 210.50(d) of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.50(d)). Specifically, the ALJ granted Tessera's motion with respect to Freescale and Spansion, the only respondents that posted a bond during the period of Presidential review, and denied the motion with respect to ATI and ST-NV, neither of which posted a bond during that period. The ALJ noted that he addressed Tessera's motion with respect to Qualcomm in Order No. 70, which also issued on April 2, 2012. No petitions for review of the subject ID were filed.

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 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
Acting Secretary to the Commission

Issued: May 18, 2012