

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

CERTAIN FLASH MEMORY CHIPS AND  
PRODUCTS CONTAINING THE SAME

Inv. No. 337-TA-664

NOTICE REGARDING ISSUANCE OF INITIAL DETERMINATION

(October 22, 2010)

On this date, the undersigned issued a Initial Determination on Violation of Section 337 in the above-referenced investigation. Attached are pages 1 and 120 from said filing, which are a matter of public record. A complete public version of the Initial Determination on Violation of Section 337 will be issued when all the parties have submitted their redactions and the undersigned has had an opportunity to review the redactions.

  
Charles E. Bullock  
Administrative Law Judge

CONTAINS CONFIDENTIAL BUSINESS INFORMATION

**UNITED STATES INTERNATIONAL TRADE COMMISSION  
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**In the Matter of**

**CERTAIN FLASH MEMORY CHIPS AND  
PRODUCTS CONTAINING THE SAME**

**Inv. No. 337-TA-664**

**INITIAL DETERMINATION ON VIOLATION OF SECTION 337 AND  
RECOMMENDED DETERMINATION ON REMEDY AND BOND**

Administrative Law Judge Charles E. Bullock  
(October 22, 2010)

Pursuant to the Notice of Investigation and Rule 210.42(a) of the Rules of Practice and Procedure of the United States International Trade Commission, this is the Administrative Law Judge's Initial Determination in the matter of certain Flash Memory Chips and Products Containing the Same, Investigation No. 337-TA-664.

The Administrative Law Judge hereby determines that no violation of Section 337 of the Tariff Act of 1930, as amended, has been found in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain flash memory devices and products containing the same, in connection with claims 1-3 and 5-8 of U.S. Patent No. 6,376,877 and claims 13, 15-18 and 20-22 of U.S. Patent No. 5,715,194. Furthermore, the Administrative Law Judge hereby determines that a domestic industry in the United States does not exist that practices or exploits U.S. Patent Nos. 6,376,877 and 5,715,194.

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**CONCLUSIONS OF LAW**

1. The Commission has subject matter jurisdiction in this investigation.
2. The Commission has personal jurisdiction over the Respondents.
3. Respondents' accused products do not infringe claims 1-8 of U.S. Patent No. 6,376,877.
4. Respondent Samsung's accused 63 nm, 51 nm, 42 nm, 35 nm, 32 nm, and 27 nm MLC NAND devices do not infringe claims 13, 15-18, and 20-22 of U.S. Patent No. 5,715,194.
5. Respondent Samsung's accused 42 nm OneNAND, 42 nm Flex-OneNAND, and 51 nm OneNAND flash memory devices infringe claims 13, 15-18, and 20-22 of U.S. Patent No. 5,715,194 in violation of 35 U.S.C. § 271(a).
6. Claims 1-8 of U.S. Patent No. 6,376,877 are valid.
7. Claims 13, 15-18, and 20-22 of U.S. Patent No. 5,715,194 are invalid under 35 U.S.C. §102(e).
8. Claims 13, 15-18, and 20-22 of U.S. Patent No. 5,715,194 are not invalid under 35 U.S.C. § 103.
9. Respondent Apple does not have an express license to U.S. Patent Nos. 6,376,877 and 5,715,194.
10. Spansion is not equitably estopped from asserting U.S. Patent Nos. 6,376,877 and 5,715,194 against Respondent Apple.
11. An industry in the United States does not exist that practices or exploits U.S. Patent Nos. 6,376,877 and 5,715,194 as required by 19 U.S.C. § 1337(a)(2) and (3).
12. An industry in the United States is not in the process of being established that will practice or exploit U.S. Patent Nos. 6,376,877 and 5,715,194 as required by 19 U.S.C. § 1337(a)(2) and (3).
13. There is no violation of 19 U.S.C. § 1337(a)(1) with respect to U.S. Patent No. 6,376,877.
14. There is no violation of 19 U.S.C. § 1337(a)(1) with respect to U.S. Patent No. 5,715,194.