

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

**In the Matter of
CERTAIN VOLTAGE REGULATORS,
COMPONENTS THEREOF AND
PRODUCTS CONTAINING SAME**

Investigation No. 337-TA-564

**NOTICE OF COMMISSION DETERMINATION TO REVIEW PORTIONS OF A
FINAL INITIAL DETERMINATION OF VIOLATION OF SECTION 337; SCHEDULE
FOR FILING WRITTEN SUBMISSIONS ON THE ISSUES UNDER REVIEW AND ON
REMEDY, THE PUBLIC INTEREST, AND BONDING**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review portions of the final Initial Determination (“ID”) issued by the presiding Administrative Law Judge (“ALJ”).

FOR FURTHER INFORMATION CONTACT: Eric Frahm, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3107. 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: This investigation was instituted on March 22, 2006, based on a complaint filed by Linear Technology Corporation (“Linear”) of Milpitas, California. The complaint, as supplemented, alleged violations of section 337 of the Tariff Act of 1930 (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 voltage regulators, components thereof and products containing the same, by reason of infringement of claims 1-14 and 23-35 of United States Patent No. 6,411,531 (“the ‘531 patent”) and claims 1-19, 31, 34, and 35 of United States

Patent No. 6,580,258 (“the ‘258 patent”). The complaint named Advanced Analogic Technologies, Inc. (“AATI”) of Sunnyvale, California as the sole respondent. Only claims 4, 9, and 26 of the ‘531 patent and claims 2, 3, 34, and 35 of the ‘258 patent remain in the investigation.

On May 22, 2007, the ALJ issued his final ID finding no violation of section 337. Specifically, he found that none of AATI’s accused products directly infringe the asserted claims of the ‘258 patent, and that one accused product directly infringes claims 4 and 26 of the ‘531 patent. He found that no indirect infringement had occurred in connection with any of the asserted claims of either patent. As to validity, the ALJ determined that claim 35 of the ‘258 patent and claims 4, 9, and 26 of the ‘531 patent are invalid due to anticipation, rejecting other arguments of invalidity, unenforceability, and estoppel. The ALJ also determined that a domestic industry exists with regard to the ‘258 patent; but that there was no domestic industry with regard to the ‘531 patent, because of a failure to meet the technical prong of the domestic industry requirement. With respect to the ‘531 patent, the Commission understands the ALJ to have construed the term “voltage regulator” to include a tolerance of approximately five percent as set forth at page 35 of the ID. On May 30, 2007, the ALJ issued his Recommended Determination (“RD”) on remedy and bonding. Linear, AATI, and the Commission investigative attorney (“IA”) filed petitions for review of the ALJ’s ID.

Having examined the pertinent portions of the record of this investigation, including the ALJ’s final ID, the petitions for review, and the responses thereto, the Commission has made the following determinations. With respect to the ‘258 patent, the Commission has determined (1) to review the ID concerning the issues of claim construction, infringement, and validity; and (2) not to review the remainder of the ID as to the ‘258 patent. With respect to the ‘531 patent, the Commission has determined (1) to review the ID concerning the issue of whether asserted claim 9 of the ‘531 patent is invalid for anticipation by the Kase reference, and upon review to take no position as to that issue, and (2) not to review the remainder of the ID as to the ‘531 patent.

The parties should brief their position on these issues with reference to the applicable law and the evidentiary record. In connection with its review, the Commission is particularly interested in responses to the following questions:

1. With respect to asserted claim 35 of the ‘258 patent, can monitoring a voltage using a voltage threshold in the accused products be considered an equivalent to “monitoring the current” using a “current threshold” in assessing infringement of claim 35 under the doctrine of equivalents? (parties should discuss the “function, way, result” test in their analysis.)
2. With respect to the ‘258 patent, provide an analysis of indirect infringement under §§ 271(b) and (c), including an analysis of any evidence upon which you rely.

In connection with the final disposition of this investigation, the Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United

States, and/or (2) issue one or more cease and desist orders that could result in the respondent being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, *see Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843 (December 1994) (Commission Opinion).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. *See* Presidential Memorandum of July 21, 2005, 70 *Fed. Reg.* 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

WRITTEN SUBMISSIONS: The parties to the investigation are requested to file written submissions on the issues for review identified in this notice. Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the RD issued by the ALJ on remedy and bonding on May 30, 2007. Complainant and the Commission investigative attorney are also requested to submit proposed remedial orders for the Commission's consideration. Complainant is requested to state the dates that the '258 patent expires and the HTSUS numbers under which the accused products are imported. The written submissions and proposed remedial orders must be filed no later than close of business on August 7, 2007. Reply submissions must be filed no later than the close of business on August 14, 2007. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Any person desiring to submit a document to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full

statement of the reasons why the Commission should grant such treatment. *See* 19 C.F.R. § 210.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

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 sections 210.42-46 and 210.50 of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.42-46 and 210.50).

By order of the Commission.

/s/
William R. Bishop
Acting Secretary to the Commission

Issued: July 24, 2007