

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

In the Matter of

**CERTAIN GRAPHICS SYSTEMS,
COMPONENTS THEREOF, AND DIGITAL
TELEVISIONS CONTAINING THE SAME**

**Investigation No. 337-TA-1318
(Modification and Rescission)**

**NOTICE OF COMMISSION DETERMINATION NOT TO INSTITUTE
MODIFICATION AND RESCISSION PROCEEDINGS AS TO THE COMMISSION'S
REMEDIAL ORDERS AND TO DENY AS MOOT PETITIONERS' JOINT MOTION
FOR LIMITED SERVICE OF CONFIDENTIAL EXHIBITS**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined (i) not to institute modification and rescission proceedings (without prejudice) as requested in a corrected joint petition to modify in part a limited exclusion order (“LEO”) and rescind cease and desist orders (“CDOs”) issued in the underlying investigation based on a settlement agreement and (ii) to deny as moot petitioners’ motion for limited service of confidential exhibits.

FOR FURTHER INFORMATION CONTACT: Richard P. Hadorn, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3179. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal, telephone (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on June 7, 2022, based on a complaint filed by Advanced Micro Devices, Inc. of Santa Clara, California and ATI Technologies ULC of Ontario, Canada (together, “AMD”). 87 FR 34718-19 (June 7, 2022). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (“section 337”), based on certain graphics systems, components thereof, and digital televisions containing the same by reason of infringement of certain claims of U.S. Patent Nos. 7,742,053; 8,760,454; 11,184,628; 8,468,547; and 8,854,381

(“the ’381 patent”). *Id.* at 34718. The complaint further alleges that a domestic industry exists. *Id.* The notice of institution named 14 respondents: (1) TCL Industries Holdings Co., Ltd. of Guangdong, China; (2) TCL Industries Holdings (H.K.) Co. Limited of Hong Kong, China; (3) TCL Electronics Holdings Ltd. f/k/a TCL Multimedia Technology Holdings, Ltd. of Hong Kong, China; (4) TCL Technology Group Corporation of Guangdong, China; (5) TTE Corporation of Hong Kong, China; (6) TCL Holdings (BVI) Ltd. of Hong Kong, China; (7) TCL King Electrical Appliances (Huizhou) Co. Ltd. of Guangdong, China; (8) Shenzhen TCL New Technology Co., Ltd. of Guangdong, China; (9) TCL MOKA International Ltd. of Hong Kong, China; (10) TCL Smart Device (Vietnam) Co., Ltd. of Binh Duong Province, Vietnam; (11) Manufacturas Avanzadas SA de CV of Chihuahua, Mexico; (12) TCL Electronics Mexico, S de RL de CV of Benito Juarez, Mexico; (13) TCL Overseas Marketing Ltd. of Hong Kong, China; and (14) Realtek Semiconductor Corporation (“Realtek”) of Hsinchu, Taiwan. *Id.* at 34719, as amended, 87 FR 62452-53 (Oct. 14, 2022). The Office of Unfair Import Investigations was not named as a party to this investigation. 87 FR at 34719.

On September 26, 2022, the Commission allowed TTE Technology, Inc. of Corona, California to intervene in this investigation as an additional respondent (collectively, with all named respondents except for Realtek, “TCL”). *See* Order No. 17 (Aug. 30, 2022), *unreviewed* by Comm’n Notice (Sept. 26, 2022).

On January 24, 2024, the Commission issued a final determination finding a violation of section 337 by TCL and Realtek with respect to claims 19 and 20 of the ’381 patent. 89 FR 5934-35 (Jan. 30, 2024); *see* Comm’n Opinion (Jan. 24, 2024). The Commission determined that the appropriate remedy is: (i) an LEO against TCL’s and Realtek’s infringing products and (ii) CDOs against each of the TCL entities, but not against Realtek. 89 FR at 5935. The Commission also set the bond during the period of Presidential review at zero (0) percent of the entered value of the infringing articles. *Id.*

On March 28, 2024, Realtek filed an appeal from the Commission’s final determination with the U.S. Court of Appeals for the Federal Circuit. *See Realtek Semiconductor Corp. v. ITC*, Appeal Nos. 24-1613. That appeal remains pending.

On April 1, 2024, pursuant to 19 U.S.C. § 1337(k) and Commission Rule 210.76(a) (19 C.F.R. § 210.76(a)), AMD and TCL (together, “Petitioners”) filed a joint petition (“Original Petition”) to modify in part the LEO as to TCL and rescind the CDOs against TCL based on a settlement agreement between Petitioners.

On April 11, 2024, Realtek filed a response to the Original Petition. Realtek states that it “takes no position” on whether the Original Petition should be granted because Petitioners failed to disclose certain information required by Commission Rules 210.76(a)(1) and (a)(3). Realtek also states that, in assessing the Original Petition, the Commission and Realtek would “benefit from” receiving certain additional information from Petitioners.

On April 12, 2024, Petitioners filed a joint corrected petition (“Corrected Petition” or “CPet.”) and a joint motion to limit service to only the Commission and its staff of the confidential versions of the exhibits attached thereto. Attached to the Corrected Petition are redacted copies of a license and settlement agreement between the Petitioners (Ex. D), as well as “two documents referenced therein” (Exs. E and F). CPet. at 4. The unredacted versions of Exhibits D, E, and F correspond to confidential Exhibits G, H, and I, respectively. *See id.* Petitioners stated that they would file certain unredacted exhibits via a separate cover letter. *Id.* That same day, AMD filed a separate correspondence to the Secretary requesting confidential treatment of business information contained in Exhibits G and H attached thereto, but did not attach Exhibit I to the request.

The Commission, having reviewed the record in this investigation, including the Petitioners’ Original Petition, Realtek’s response thereto, Petitioners’ Corrected Petition and motion for limited service of confidential exhibits G, H, and I, and AMD’s request for confidential treatment of business information contained in Exhibits G and H, has determined not to institute the requested modification and rescission proceedings because the Corrected Petition fails to comply with the Commission’s rules. Specifically, Commission Rule 210.76(a)(3) requires that a petition for modification or rescission based on a licensing or settlement agreement contain “[1] copies of the licensing or other settlement agreements, any supplemental agreements, [and] any documents referenced in the petition or attached agreements, and [2] a statement that there are no other agreements, written or oral, express or implied between the parties concerning the subject matter of the investigation.” 19 C.F.R. § 210.76(a)(3). While the Corrected Petition cures the lack of the statement of no other agreements that was missing in the Original Petition, the corrected filing and correspondence to the Secretary fail to comply with the requirement that unredacted copies of the settlement documents (and documents referenced therein) be submitted. The determination not to institute is without prejudice. The Commission has also determined to deny as moot Petitioners’ motion for limited service of confidential exhibits G, H, and I. The Commission issues an order herewith setting forth its determinations.

The Commission vote for this determination took place on April 30, 2024.

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 Part 210 of the Commission’s Rules of Practice and Procedure (19 CFR Part 210).

By the order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: May 1, 2024