

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

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**In the Matter of** )

**CERTAIN DISC DRIVES, COMPONENTS THEREOF,** )  
**AND PRODUCTS CONTAINING SAME** )

**Inv. No. 337-TA-516**

**NOTICE OF COMMISSION DECISION TO REVIEW  
AND REVERSE AN INITIAL DETERMINATION GRANTING SUMMARY  
DETERMINATION OF THE INVALIDITY OF CLAIMS 1, 2, 4, 6, 9-15, 17, 19, AND 20  
OF U.S. PATENT NO. 6,744,606; DENIAL OF MOTION FOR LEAVE TO FILE A  
REPLY BRIEF**

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

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined (1) to review and reverse the presiding administrative law judge's ("ALJ's") initial determination ("ID") granting in part respondent's motion for summary determination of the invalidity of certain claims of U.S. Patent No. 6,744,606 and (2) to deny complainant's January 21, 2005, motion for leave to file a reply brief.

**FOR FURTHER INFORMATION CONTACT:** Clara Kuehn, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3012. Copies of the nonconfidential version of the ALJ's ID and all other nonconfidential 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 (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) 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 August 5, 2004, based on a complaint filed on behalf of Seagate Technology, LLC ("Seagate"). 69 *Fed. Reg.* 47460 (Aug. 5, 2004). The complaint, as supplemented, alleged violations of section 337 in the importation into the United States, sale for importation, and sale within the United States after importation of certain

disc drives, components thereof, and products containing same by reason of infringement of certain claims of seven U.S. patents, including claims 1, 2, 4–6, 9–15, 17–19, and 20 of the ‘606 patent. The notice of investigation named Cornice, Inc. (“Cornice”) of Longmont, Colorado as the sole respondent.

On November 12, 2004, respondent Cornice filed a motion for summary determination of invalidity of the asserted claims of the ‘606 patent on the ground that the asserted claims were anticipated by each of five prior art references. On December 1, 2004, complainant Seagate and the Commission investigative attorney (“IA”) filed responses opposing the motion.

On December 28, 2004, the ALJ issued Order No. 6, an ID granting the motion in part and an order denying the motion in part. The ALJ granted summary determination that claims 1, 2, 4, 6, 9, 10, 11, 12, 13, 14, 15, 17, 19, and 20 of the ‘606 patent are invalid under 35 U.S.C. § 102(b) as anticipated by two prior art references. The ALJ denied the balance of the motion for summary determination.

On January 5, 2005, Seagate filed a petition for review. On January 12, 2005, Cornice filed a response opposing the petition for review. On the same day, the IA filed a response supporting the petition. On January 21, 2005, Seagate filed a motion for leave to file a reply brief to Cornice’s response to Seagate’s petition for review. The Commission determined to deny the motion.

The Commission determined to review and reverse the ALJ’s ID granting summary determination on the ground that, assuming *arguendo* that the ALJ’s claim construction is correct, summary determination is inappropriate because there are genuine issues of material fact as to what is disclosed in the two prior art references. *See* Commission rule 210.18(b) (19 C.F.R. 210.18(b)). The Commission determined to *take no position* on the ALJ’s claim construction.

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 210.42–43 of the Commission’s Rules of Practice and Procedure (19 C.F.R. §§ 210.42–43).

By order of the Commission.

Marilyn R. Abbott  
Secretary to the Commission

Issued: January 27, 2005