

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

In the Matter of

**CERTAIN MLC FLASH MEMORY
DEVICES AND PRODUCTS
CONTAINING SAME**

Investigation No. 337-TA-683

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION GRANTING-IN-PART COMPLAINANT'S MOTION FOR
SUMMARY DETERMINATION OF THE ECONOMIC PRONG OF THE DOMESTIC
INDUSTRY REQUIREMENT**

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. 24) granting-in-part complainant's motion for summary determination of the economic prong of the domestic industry requirement in Inv. No. 337-TA-683, *Certain MLC Flash Memory Devices and Products Containing Same*.

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) 205-1999. 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 August 27, 2009, based on a complaint filed by BTG International, Inc. of West Conshohocken, Pennsylvania ("BTG"). 74 *Fed. Reg.* 43723-4 (August 27, 2009). The complaint, as amended and supplemented, alleges violations of Section 337 of the Tariff Act of 1930, as amended, 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 MLC flash memory devices and products containing same by reason of infringement of certain claims of U.S. Patent Nos. 5,394,362; 5,764,571; 5,872,735 ("the '735 patent"), 6,104,640 ("the '640 patent"); and 6,118,692 ("the

'692 patent"). The complaint further alleges the existence of a domestic industry. The Commission's notice of investigation named numerous respondents. On February 22, 2010, the Commission determined not to review an ID granting BTG's motion to partially terminate the investigation as to the '735, '640, and '692 patents.

On April 22, 2010, BTG filed a motion for summary determination that it satisfies the domestic industry requirement under 19 U.S.C. § 1337(a)(3)(C) based on its licensing activities, or in the alternative, that it satisfies the economic prong of the domestic industry requirement based on the activities of its sublicensee, Intel Corp. ("Intel"). On May 3, 2010, Respondents and the Commission investigative attorney responded that they did not oppose the motion to the extent that BTG relied on its sublicensee's activities to satisfy the economic prong of the domestic industry requirement.

On May 21, 2010, the ALJ issued the subject ID, granting-in-part BTG's motion and finding that BTG satisfies the economic prong of the domestic industry requirement based on the activities of its sublicensee, Intel. No petitions for review 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/
Marilyn R. Abbott
Secretary to the Commission

Issued: June 11, 2010