

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

**CERTAIN GRAPHICS SYSTEMS,
COMPONENTS THEREOF, AND
CONSUMER PRODUCTS
CONTAINING THE SAME**

Investigation No. 337-TA-1044

**NOTICE OF COMMISSION FINAL DETERMINATION FINDING A
SECTION 337 VIOLATION; ISSUANCE OF A LIMITED EXCLUSION ORDER
AND CEASE AND DESIST ORDERS; DENIAL OF MOTION TO AMEND; AND
TERMINATION OF THE INVESTIGATION**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has found a violation of section 337 of the Tariff Act of 1930 (“section 337”), as amended, in this investigation. The Commission has issued a limited exclusion order prohibiting the importation of certain graphics systems and televisions containing the same that infringe claim 1-5 and 8 of U.S. Patent No. 7,633,506 (“the ’506 patent”). The Commission has also issued cease and desist orders directed to Respondents VIZIO, Inc. (“VIZIO”) and Sigma Designs, Inc. (“SDI”). The Commission has further determined to deny Complainants’ motion for leave to amend the complaint and the notice of investigation. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Houda Morad, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708-4716. 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 SW., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://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 Investigation No. 337-TA-1044 on March 22, 2017, based on a complaint filed by Complainants Advanced Micro Devices, Inc. of Sunnyvale, California and ATI Technologies ULC of Canada (collectively,

“AMD” or “Complainants”). *See* 82 FR 14748 (Mar. 22, 2017). The complaint, as amended, alleges violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain graphics systems, components thereof, and consumer products containing the same, by reason of infringement of certain claims of the ’506 patent; U.S. Patent No. 7,796,133 (“the ’133 patent”); U.S. Patent No. 8,760,454 (“the ’454 patent”); and U.S. Patent No. 9,582,846 (“the ’846 patent”). *Id.* The notice of investigation identified LG Electronics, Inc. of Seoul, Republic of Korea, LG Electronics U.S.A., Inc. of Englewood Cliffs, New Jersey, and LG Electronics MobileComm U.S.A. Inc. of San Diego, California (collectively, “LG”), VIZIO of Irvine, California, MediaTek Inc. of Hsinchu City, Taiwan and Media Tek USA Inc. of San Jose, California (collectively, “MediaTek”), and SDI of Fremont, California, as respondents in this investigation. *See id.* The Office of Unfair Import Investigations (“OUII”) is also a party to the investigation.

On October 20, 2017, the ALJ issued an initial determination terminating the investigation as to LG based on settlement. *See* Order No. 48 (Oct. 20, 2017), *unreviewed*, Comm’n Notice (Nov. 13, 2017). The remaining respondents in this investigation are VIZIO, MediaTek, and SDI (hereinafter, “the Remaining Respondents”). The ALJ also terminated the investigation with respect to all asserted claims of the ’454 and ’846 patents; claims 6, 7, and 9 of the ’506 patent; and claims 2, 4-13, and 40 of the ’133 patent. *See* Order No. 33 (Aug. 15, 2017), *unreviewed*, Comm’n Notice (Sept. 5, 2017); Order No. 43 (Oct. 5, 2017), *unreviewed*, Comm’n Notice (Oct. 31, 2017); Order No. 49 (Oct. 20, 2017), *unreviewed*, Comm’n Notice (Nov. 13, 2017); Order No. 53 (Oct. 31, 2017), *unreviewed*, Comm’n Notice (Nov. 28, 2017). Claims 1-5 and 8 of the ’506 patent and claims 1 and 3 of the ’133 patent (hereinafter, “the asserted claims”) remain pending in this investigation.

On April 13, 2018, the ALJ issued her final Initial Determination (“FID”) and Recommended Determination on Remedy and Bond (“RD”) finding a violation of section 337 with respect to the ’506 patent but not the ’133 patent. Specifically, the FID finds that: (1) certain accused products infringe the asserted claims of the ’506 patent but not the ’133 patent; (2) the asserted claims are not invalid; and (3) Complainants satisfy the economic and technical prongs of the domestic industry requirement with respect to both asserted patents. In addition, the ALJ recommended that the Commission issue: (1) a Limited Exclusion Order against the infringing accused products; and (2) Cease and Desist Orders against Respondents VIZIO and SDI. The ALJ further recommended against setting a bond during Presidential review.

On June 14, 2018, the Commission issued a Notice determining to review the FID in part. *See* 83 FR 28660-62 (June 20, 2018). The Commission sought written submissions in response to certain questions relating to the claim construction of the terms “unified shader” (recited in the ’506 and ’133 patent claims), “packet” (recited in the ’133 patent claims), and “ALU/memory pair” (recited in the ’133 patent claims). *See id.* The Commission also solicited written submissions on the issues of remedy, the public interest, and bonding. *See id.* On June 28, 2018, the parties filed written submissions in response to the June 14, 2018 Notice, and on July 6, 2018, the parties filed responses to each other’s submissions.

On June 26, 2018, Complainants filed a motion for leave to amend the complaint and notice of investigation to add V-Silicon Inc. and V-Silicon International, Inc. as respondents in this investigation (*Motion*). On July 5 and 6, 2018, OUII and Respondents, respectively, filed responses to Complainants' motion to amend. As explained in the Commission's Opinion issued concurrently herewith, the Commission has determined to deny Complainants' *Motion*.

In addition, having examined the record of this investigation, including the FID, the RD, and the parties' submissions, the Commission has determined to affirm the FID's ultimate conclusions of a section 337 violation with respect to the '506 patent and no section 337 violation with respect to the '133 patent. In addition, the Commission has determined to modify the FID in part with respect to: (1) the importation requirement as to Respondents MediaTek and SDI; and (2) the claim construction of the terms "unified shader," "packet," and "ALU/memory pair" as well as certain related FID findings on infringement, validity, and the technical prong of the domestic industry requirement. All findings in the FID that are not inconsistent with the Commission's determination are affirmed.

Accordingly, the Commission finds that there is a violation of section 337 with respect to the '506 patent. The Commission has determined that the appropriate remedy is a limited exclusion order against Respondents' infringing products, and cease and desist orders against Respondents VIZIO and SDI. The Commission has also determined that the public interest factors enumerated in subsections 337(d)(1) and (f)(1) (19 U.S.C. 1337(d)(1), (f)(1)) do not preclude the issuance of the limited exclusion order and cease and desist orders. The Commission has further determined to set a bond at zero (0) percent of entered value during the Presidential review period (19 U.S.C. 1337(j)).

The Commission's orders and opinion were delivered to the President and to the United States Trade Representative on the day of their issuance.

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 order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: August 22, 2018