UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of **CERTAIN INTEGRATED CIRCUITS AND PRODUCTS CONTAINING THE SAME**	**Inv. No. 337-TA-1246**

NOTICE OF INSTITUTION OF INVESTIGATION

Institution of Investigation Pursuant to 19 U.S.C. 1337

AGENCY: U.S. International Trade Commission

ACTION: Notice

SUMMARY: Notice is hereby given that a complaint and motion for temporary relief were filed with the U.S. International Trade Commission on December 18, 2020, under section 337 of the Tariff Act of 1930, as amended, on behalf of Tela Innovations, Inc. of Los Gatos, California. Supplements were filed on December 30, 2020, and February 3, 2021. The motion for temporary relief was withdrawn on February 3, 2021. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain integrated circuits and products containing the same by reason of infringement of certain claims of U.S. Patent No. 10,186,523 ("the '523 patent"). The complaint further alleges that an industry in the United States exists and/or is in the process of being established as required by the applicable Federal Statute.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, may be viewed on the Commission's electronic docket (EDIS) at https://edis.usitc.gov. For help accessing EDIS, please email EDIS3Help@usitc.gov. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205-2000. General information concerning the Commission may also be obtained by accessing its internet server at https://www.usitc.gov.

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205-2560.

SUPPLEMENTARY INFORMATION:

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.10 (2020).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on February 8, 2021, **ORDERED THAT** –

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 1-11, 14-20, 25, and 26 of the '523 patent; and whether an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337;

(2) Pursuant to Rule 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is "Intel's microprocessors fabricated using Tri-Gate technology at a 14nm process node or smaller and products that contain such Intel microprocessors, specifically servers, workstations, desktops, all-in-one PCs, laptops, notebooks, computer tablets, and board-level computers";

(3) Pursuant to Rule 210.10(b)(3) of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.10(b)(3), the presiding Administrative Law Judge shall hold an early evidentiary hearing and find facts, as needed, and shall issue an early initial determination ("ID"), within 100 days of institution, except for good cause shown, as to whether the complainant's allegations in this investigation are precluded or otherwise barred – *e.g.*, under claim preclusion, issue preclusion, or the *Kessler* doctrine – by either the decision of the U.S. District Court for the Northern District of California, *Intel Corp. v. Tela Innovations, Inc.*, No. 3:18-cv-02848-WHO, ECF No. 316 (N.D. Cal. Dec. 22, 2020), or the Commission's final determination in *Certain Integrated Circuits and Prods. Containing Same*, Investigation No. 337-TA-1148. *See Smith v. Bayer Corp.*, 564 U.S. 299, 307 (2011) ("Deciding whether and how prior litigation has preclusive effect is usually the bailiwick of the *second* court …."); *see also* Charles Alan Wright et al., Federal Practice & Procedure § 4405 (2d ed.) ("The first court does not get to dictate to other courts the preclusion consequences of its own judgment…."). Any review will be conducted in accordance with Commission Rules 210.42-45. 19 C.F.R. 210.42-45. Unless the Commission orders otherwise, the issuance of an early ID finding that the complainant is precluded or barred from pursuing its complaint shall stay the investigation and any other decision shall not stay the investigation or delay the issuance of a final ID covering the other issues of the investigation;

(4) Pursuant to Commission Rule 210.50(b)(l), 19 C.F.R. 210.50(b)(1), the presiding administrative law judge shall take evidence or other information and hear arguments from the parties or other interested persons with respect to the public interest in this investigation, as

appropriate, and provide the Commission with findings of fact and a recommended determination on this issue, which shall be limited to the statutory public interest factors set forth in 19 U.S.C. 1337(d)(l), (f)(1), (g)(1);

(5) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

Tela Innovations, Inc.
1484 Pollard Road #483
Los Gatos, CA 95032

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Acer, Inc.
1F, 88, Sec. 1, Xintai 5th Rd.
Xizhi
New Taipei City 221, Taiwan

Acer America Corporation
333 West San Carlos Street
Suite 1500
San Jose, CA 95110

ASUSTek Computer Inc.
No. 15, Li-Te Road
Beitou District
Taipai 112, Taiwan

ASUS Computer International
800 Corporate Way
Fremont, CA 94539

Intel Corporation
2200 Mission College Blvd.
Santa Clara, CA 95052

Lenovo Group Ltd.
No. 6 Chuang Ye Road
Shangdi Information Industry Base
Beijing 100085
China

Lenovo (United States) Inc.
1009 Think Pl.
Morrisville, NC 27560

Micro-Star International Co., Ltd.
No. 69, Lide St.
Zhonghe District
New Taipei City 235,
Taiwan

MSI Computer Corp.
901 Canada Court
City of Industry, CA 91748

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Suite 401, Washington, D.C. 20436; and

(7) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.13. Pursuant to 19 C.F.R. 201.16(e) and 210.13(a), as amended in 85 Fed. Reg. 15798 (March 19, 2020), such responses will be considered by the Commission if received not later than 20 days after the date of service by the complainant of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Lisa R. Barton
Secretary to the Commission

Issued: February 8, 2021