

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN SEMICONDUCTOR DEVICES
HAVING LAYERED DUMMY FILL,
ELECTRONIC DEVICES, AND
COMPONENTS THEREOF**

Investigation No. 337-TA-1342

**NOTICE OF THE COMMISSION'S DETERMINATION TO REVIEW, AND ON
REVIEW, TO VACATE AND REMAND AN INITIAL DETERMINATION
TERMINATING THE INVESTIGATION**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review the presiding chief administrative law judge's ("CALJ") initial determination ("ID") (Order No. 23) terminating the investigation in its entirety pursuant to Complainant's withdrawal of the complaint. On review, the Commission has determined to vacate the termination of the investigation and remand the investigation for further proceedings.

FOR FURTHER INFORMATION CONTACT: Edward S. Jou, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3316. 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 on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on November 29, 2022, based on a complaint filed by Bell Semiconductor, LLC of Bethlehem, Pennsylvania (the "Complainant"). 87 FR 73330-31 (Nov. 29, 2022). The complaint, as supplemented, 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 semiconductor devices having layered dummy fill, electronic devices, and components thereof by reason of infringement of certain claims of U.S. Patent No. 7,396,760. The notice of investigation named fifteen respondents. *Id.*

The Office of Unfair Import Investigations (“OUII”) was also named as a party to the investigation. *Id.*

Twelve of the named respondents have been terminated from the investigation. Order No. 12 (Jan. 11, 2023), *unreviewed by* Comm’n Notice (Feb. 8, 2023), Order No. 20 (Mar. 14, 2023), *unreviewed by* Comm’n Notice (Apr. 3, 2023), and Order No. 21 (Mar. 28, 2023) *unreviewed by* Comm’n Notice (Apr. 21, 2023). The three remaining respondents are Omnivision Technologies, Inc., Skyworks Solutions, Inc., and Arlo Technologies, Inc. (the “Respondents”).

On May 8, 2023, Complainant filed a motion to terminate the investigation based on the withdrawal of its allegations against the three remaining Respondents, pursuant to an agreement with non-party Siemens Industry Software, Inc. (“Siemens”). On May 16, 2023, OUII filed a response in support of the motion. On May 18, 2023, Respondents filed a response to the motion supporting the termination of the investigation but arguing that Complainant should be required to file a copy of its agreement with Siemens.

On June 9, 2023, the presiding CALJ issued Order No. 23 granting the motion to terminate the investigation pursuant to Commission Rule 210.21(a)(1) (19 CFR 210.21(a)(1)). The ID found that Complainant’s motion complied with the Commission Rules. *Id.* at 2-3. Specifically, the ID found that Commission Rule 210.21(a)(1) only requires the submission of agreements “between the parties” and thus Complainant was not required to file a copy of its agreement with non-party Siemens. *Id.* The ID found that termination of the investigation was warranted and suspended the procedural schedule pending Commission review. *Id.* at 4. No one petitioned for review of the ID.

The Commission has determined to review the subject ID, and on review, to vacate the termination of the investigation and remand the investigation for further proceedings. As explained in the Remand Order issued concurrently herewith, the Commission finds that termination of the investigation was premature, because Complainant did not comply with the requirement in Commission Rule 210.21(a)(1) to file “any agreements concerning the subject matter of the investigation.” The Commission finds that the identification and filing of agreements required by Commission Rule 210.21(a)(1) is not limited to agreements “between the parties”. In particular, because Complainant seeks to terminate the investigation pursuant to Commission Rule 210.21(a)(1) by complaint withdrawal, it must file a copy of its agreement with non-party Siemens.

The Commission vote for this determination took place on July 11, 2023.

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 C.F.R. Part 210).

By order of the Commission.

A handwritten signature in black ink, appearing to read 'LRB', enclosed within a circular flourish.

Lisa R. Barton
Secretary to the Commission

Issued: July 11, 2023