

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

**In the Matter of**

**CERTAIN SEMICONDUCTOR  
DEVICES, AND METHODS OF  
MANUFACTURING SAME AND  
PRODUCTS CONTAINING THE SAME**

**Investigation No. 337-TA-1366**

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

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

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission (“Commission”) has determined that there is a violation of section 337 in the above-captioned investigation. The Commission has further determined to issue a limited exclusion order and cease and desist orders and to set a bond in the amount of five percent (5%) of entered value for covered articles imported or sold during the period of Presidential review.

**FOR FURTHER INFORMATION CONTACT:** Panyin A. Hughes, Office of the General Counsel, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, telephone (202) 205-3042. 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](mailto: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 July 3, 2023, based on a complaint filed by Efficient Power Conversion Corporation of El Segundo, California (“EPC”). 88 FR 42756–77 (Jul. 3, 2023). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based on the importation into the United States, the sale for importation, or sale within the United States after importation of certain semiconductor devices, and methods of manufacturing same, and products containing the same by reason of the infringement of one or more claims of U.S. Patent Nos. 10,312,335 (“the ’335 patent”); 8,350,294 (“the ’294 patent”); 8,404,508 (“the ’508 patent”); and 9,748,347 (“the ’347 patent”). *Id.* The complaint further alleged that a domestic industry exists. *Id.* The

Commission’s notice of investigation named as respondents Innoscience (Zhuhai) Technology, Company, Ltd., of Zhuhai, Guangdong, China; and Innoscience America, Inc. of Santa Clara, California (together “Innoscience” or “Respondents”). The Office of Unfair Import Investigations (“OUII”) was also named as a party in this investigation. *Id.*

On October 13, 2023, Chief Administrative Law Judge (“CALJ”) held a *Markman* hearing.

On December 13, 2023, the CALJ issued an initial determination (“ID”) granting a motion to terminate the investigation as to all asserted claims of the ’347 patent. Order No. 9 (Dec. 13, 2023), *unreviewed by* Comm’n Notice (Jan. 11, 2024).

On February 12, 2024, the CALJ issued an ID granting a motion to terminate the investigation as to all asserted claims of the ’335 patent. Order No. 12 (Feb. 12, 2024), *unreviewed by* Comm’n Notice (Mar. 12, 2024).

The CALJ held an evidentiary hearing from February 26, 2024 to March 1, 2024, and received post-hearing briefs thereafter.

On July 5, 2024, the CALJ issued the final ID finding a violation of section 337 as to claims 2 and 3 of the ’294 patent and no violation of section 337 as to claim 1 of the ’294 patent. The CALJ also found no violation of section 337 as to the only asserted claim of the ’508 patent, claim 1. Specifically, the ID found that by appearing and participating in the investigation, the parties have consented to personal jurisdiction at the Commission. ID at 10-11. The ID found that EPC established the importation requirement under 19 U.S.C. 1337(a)(1)(B), noting that Innoscience does not dispute importing the accused products. *Id.* at 11-12. The ID found that because the accused products have been imported into the United States, the Commission has *in rem* jurisdiction over them. *Id.* at 12. The ID found that EPC owns the patents and thus has standing to assert the patents in this investigation. *Id.* The ID found that EPC successfully proved that the accused products infringe the asserted claims of the ’294 patent (claims 1-3) but that unlike claims 2 and 3, claim 1 has been shown to be invalid for obviousness. ID at 30-51, 85-100. The ID found that EPC failed to prove that the accused products infringe claim 1 of the ’508 patent and that Respondents failed to prove the claim invalid for obviousness. *Id.* at 52-68, 103-117. Finally, the ID found that EPC established the economic prong of the domestic industry requirement for both the ’294 and ’508 patents but failed to establish the technical prong of the domestic industry requirement for the ’508 patent. ID at 120-151. Thus, the ID found the existence of a domestic industry that practices the ’294 patent as required by 19 U.S.C. 1337(a)(2) but not one that practices the ’508 patent.

The ID included the CALJ’s recommended determination on remedy and bonding (“RD”). The RD recommended, should the Commission find a violation, issuance of a limited exclusion order and cease and desist orders against the Respondents. ID/RD at 154-157. The RD also recommended imposing a bond in the amount of five percent (5%) of entered value for infringing products imported during the period of Presidential review. *Id.* at 158-159.

On July 19, 2024, EPC and Innoscience filed respective petitions for review of the ID. On July 29, 2024, the parties, including OUII, filed responses to the petitions.

On August 6, 2024, Respondents filed a motion for sanctions against EPC and its counsel for their alleged breach of the CALJ's administrative protective order ("APO") based on an alleged disclosure EPC made in IPR proceedings before the Patent Office. Respondents requested a sanction of non-enforcement of the '294 patent. Respondents also requested a stay of the proceedings pending disposition of the sanctions motion. On August 15, 2024, OUII filed a response, opposing Respondents' motion. On August 16, 2024, Complainant file an opposition to Respondents' motion. On September 19, 2024, Respondents filed a motion for leave to file a reply brief in support of its motion for sanctions. On September 24, 2024, EPC filed an opposition to Respondents' motion for leave to file a reply. On October 2, 2024, OUII filed an opposition to Respondents' motion for leave to file a reply.

The Commission has determined to deny Respondents' motion for leave to file a reply brief. The Commission has also determined to deny Respondents' motion for a sanction of non-enforcement of the '294 patent. The Commission notes that Respondents' allegation of a breach of the APO has been referred to the Commission's Office of the Secretary for further proceedings according to the Commission's normal procedures. The Commission reminds the parties of their obligations under Commission Rule 210.25 to promptly file any allegations of breach of an APO, and to bring the matter to the attention of the presiding ALJ where, as here, the alleged breach is discovered while the investigation was pending before the CALJ. The Commission also reminds the parties of their obligation under Commission rule 210.34 to keep the identity of any alleged breacher confidential. The Commission has also determined to deny Respondent's request to stay the proceedings pending disposition of the sanctions motion.

On September 5, 2024, the Commission determined to review the final ID in its entirety. 89 Fed. Reg. 73719-21 (Sept. 11, 2024). The Commission asked the parties briefing questions related to: (1) construction of the claim term "compensated GaN layer" recited in claim 1 of the '294 patent and the ID's infringement, invalidity, and technical prong of the domestic industry analyses if the Commission were to adopt OUII's proposed construction of the term; (2) invalidity finding of the '294 patent; (3) whether the only asserted claim of the '508 patent, claim 1, is limited to using a single mask to etch both the gate contact and doped GaN layer based on the '508 patent's description of the "present invention," as well as whether the claim steps must be performed in the order recited; and (4) whether EPC's "total operating expenditures" identified on page 129 of the ID includes foreign manufacturing expenses for the domestic industry products. *Id.*

On September 23, 2023, the parties filed initial submissions in response to the Commission's request for briefing. On September 30, 2023, the parties filed reply submissions.

Upon review of the parties' submissions, the ID, the RD, evidence of record, and public interest filings, the Commission has determined that Respondents violated section 337 by reason of importation and sale of articles that infringe asserted claims 2 and 3 of the '294 patent and to

issue remedial orders. The Commission has determined to clarify the ID's statements on jurisdiction and standing as noted in the accompanying Commission Opinion. The Commission has determined to adopt OUII's construction of the claim term "compensated GaN layer" recited in claim 1 of the '294 patent as its plain and ordinary meaning and, as explained in the Commission opinion, finds that adoption of OUII's construction does not alter the ID's findings on infringement, invalidity, and technical prong of domestic industry, which the Commission affirms. For the '508 patent, the Commission affirms the ID's finding of no violation for the reasons provided in the ID.

For remedy, the Commission has determined to issue a limited exclusion order prohibiting further importation of infringing products and cease and desist orders against Respondents. The Commission has determined that the public interest factors do not counsel against issuing remedial orders. The Commission has determined that a bond in the amount of five percent (5%) of entered value for covered articles is required for covered products imported or sold during the period of Presidential review.

The Commission vote for this determination took place on November 7, 2024.

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: November 7, 2024