

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN GRAPHICS SYSTEMS,
COMPONENTS THEREOF, AND DIGITAL
TELEVISIONS CONTAINING THE SAME**

Investigation No. 337-TA-1318

**NOTICE OF COMMISSION DETERMINATION TO REVIEW IN PART A FINAL
INITIAL DETERMINATION FINDING A VIOLATION OF SECTION 337; REQUEST
FOR WRITTEN SUBMISSIONS ON THE ISSUES UNDER REVIEW AND ON
REMEDY, THE PUBLIC INTEREST, AND BONDING**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that on July 7, 2023, the presiding administrative law judge (“ALJ”) issued a combined final initial determination (“ID”) finding a violation of section 337 and recommended determination (“RD”) on remedy and bonding in the above-captioned investigation. The Commission has determined to review the final ID in part. The Commission requests written submissions from the parties on the issues under review and submissions from the parties, interested government agencies, and interested persons on the issues of remedy, the public interest, and bonding, under the schedule set forth below.

FOR FURTHER INFORMATION CONTACT: Richard P. Hadorn, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3179. 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, telephone (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on June 7, 2022, based on a complaint filed by Advanced Micro Devices, Inc. of Santa Clara, California and ATI Technologies ULC of Ontario, Canada (together, “AMD”). 87 FR 34718-19 (June 7, 2022). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (“section 337”), based on certain graphics systems, components thereof, and digital televisions containing the same by reason of infringement of

certain claims of U.S. Patent Nos. 7,742,053 (“the ’053 patent”); 8,760,454 (“the ’454 patent”); 11,184,628 (“the 628 patent”); 8,468,547 (“the ’547 patent”); and 8,854,381 (“the ’381 patent”). *Id.* at 34718. The complaint further alleges that a domestic industry (“DI”) exists. *Id.* The notice of investigation (“NOI”) named 14 respondents: (1) TCL Industries Holdings Co., Ltd. of Guangdong, China; (2) TCL Industries Holdings (H.K.) Co. Limited of Hong Kong, China; (3) TCL Electronics Holdings Ltd. f/k/a TCL Multimedia Technology Holdings, Ltd. of Hong Kong, China; (4) TCL Technology Group Corporation of Guangdong, China; (5) TTE Corporation of Hong Kong, China; (6) TCL Holdings (BVI) Ltd. of Hong Kong, China; (7) TCL King Electrical Appliances (Huizhou) Co. Ltd. of Guangdong, China; (8) Shenzhen TCL New Technology Co., Ltd. of Guangdong, China; (9) TCL MOKA International Ltd. of Hong Kong, China; (10) TCL Smart Device (Vietnam) Co., Ltd. of Binh Duong Province, Vietnam; (11) Manufacturas Avanzadas SA de CV of Chihuahua, Mexico; (12) TCL Electronics Mexico, S de RL de CV of Benito Juarez, Mexico; (13) TCL Overseas Marketing Ltd. of Hong Kong, China (collectively, “TCL”); and (14) RealTek Semiconductor Corporation of Hsinchu, Taiwan (“Realtek”). *Id.* at 34719, as amended, 87 FR 62452-53 (Oct. 14, 2022). The Office of Unfair Import Investigations is not named as a party to this investigation. 87 FR at 34719.

On August 4, 2022, the Commission terminated the investigation as to the ’454 patent. *See* Order No. 10 (July 14, 2022), *unreviewed by* Comm’n Notice (Aug. 4, 2022).

On September 26, 2022, the Commission allowed non-party TTE Technology, Inc. of Corona, California to intervene in this investigation as an additional respondent (collectively, with all others, “Respondents”). *See* Order No. 17 (Aug. 30, 2022), *unreviewed by* Comm’n Notice (Sept. 26, 2022).

On October 7, 2022, the Commission terminated the investigation as to claims 17-21 of the ’547 patent and amended the complaint and NOI to correct the names of two respondents by changing “TCL Industries Holdings (H.K.) Limited” to “TCL Industries Holdings (H.K.) Co. Limited,” and “Shenzhen TCL New Technologies Co., Ltd.” to “Shenzhen TCL New Technology Co., Ltd.”. *See* Order Nos. 23 (Sept. 20, 2022) and 24 (Sept. 20, 2022), *unreviewed by* 87 FR 62452-53 (Oct. 14, 2022).

On February 22, 2023, the Commission terminated the investigation as to the ’547 patent. *See* Order No. 56 (Jan. 24, 2023), *unreviewed by* Comm’n Notice (Feb. 22, 2023). On March 7, 2023, the Commission terminated the investigation as to claims 1-4 and 7 of the ’053 patent and claims 8, 11, and 12 of the ’628 patent. *See* Order No. 64 (Feb. 7, 2023), *unreviewed by* Comm’n Notice (Mar. 7, 2023).

On March 15, 2023, the Commission granted summary determination that the economic prong of the DI requirement has been satisfied in this investigation as to the remaining asserted patents—*i.e.*, the ’053, ’628, and ’381 patents. *See* Order No. 62 (Feb. 6, 2023), *aff’d by* Comm’n Notice (Mar. 15, 2023).

On March 30, 2023, the Commission terminated the investigation as to claim 8 of the '053 patent and claim 18 of the '381 patent. *See* Order No. 70 (Mar. 14, 2023), *unreviewed by Comm'n Notice* (Mar. 30, 2023). On April 19, 2023, the Commission terminated the investigation as to the '628 patent. *See* Order No. 72 (Apr. 3, 2023), *unreviewed by Comm'n Notice* (Apr. 19, 2023).

On July 7, 2023, the ALJ issued the subject final ID on violation and RD on remedy and bonding. The ID finds no violation of section 337 as to the '053 patent, but does find a violation as to claims 19 and 20 of the '381 patent. The RD recommends that, should the Commission determine that a violation of section 337 has occurred, the Commission should: (i) issue a limited exclusion order against the Respondents' infringing products; (ii) issue a cease and desist order against all the Respondents, except for Realtek and TTE; and (iii) issue no bond for importations of infringing products during the period of Presidential review.

On July 21, 2023, AMD filed a contingent petition seeking review of certain findings in the ID, including non-infringement of the asserted claims of the '053 patent and claim construction and invalidity as to claims 15-17 of the '381 patent. That same day, Respondents filed a petition seeking review of certain of the ID's findings concerning claim construction, infringement, validity, and the technical prong of the DI requirement as to claims 19 and 20 of the '381 patent. Respondents also contingently petition for review of certain findings on claim construction, infringement, validity, and the technical prong of the DI requirement as to the asserted claims of the '053 patent and claims 15-17 of the '381 patent. On July 31, 2023, AMD and Respondents each filed a response opposing the other's petition.

The Commission did not receive submissions on the public interest from the parties pursuant to Commission Rule 210.50(a)(4), 19 CFR 210.50(a)(4). The Commission also did not receive any submissions on the public interest from members of the public in response to the Commission's *Federal Register* notice. *See* 88 FR 48262-63 (July 26, 2023).

Having reviewed the record of the investigation, including the final ID, the parties' submissions to the ALJ, the petitions, and the responses thereto, the Commission has determined to review the ID in part. Specifically, the Commission has determined to review the ID's findings regarding the construction of limitation 5[c] ("a plurality of command processing engines, coupled to the arbiter, each operable to receive and process the command thread"), as well as infringement and satisfaction of the technical prong of the DI requirement with respect to limitation 5[c] of claim 5 of the '053 patent. On review, the Commission has determined to take no position on those issues. The Commission has also determined to review the ID's finding regarding infringement of claim 19 of the '381 patent. The Commission has determined not to review the remaining findings in the ID.

In connection with its review, the Commission requests responses to the following question. The parties are requested to brief their positions with reference to the applicable law and the existing evidentiary record.

- (1) Whether the accused products practice the limitation “based on respective state data associated with each of the first [*graphics-processing task*] and second [*general-compute*] tasks” as required by claim 19 of the ’381 patent under the ID’s construction of “based on respective state data.”
Provide citations to record evidence in support of your position.

The parties are invited to brief only the discrete issue requested above. The parties are not to brief other issues on review, which are adequately presented in the parties’ existing filings.

In connection with the final disposition of this investigation, the statute authorizes issuance of, *inter alia*, (1) an exclusion order that could result in the exclusion of the subject articles from entry into the United States; and/or (2) cease and desist orders that could result in the respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843, Comm’n Op. at 7-10 (Dec. 1994).

The statute requires the Commission to consider the effects of that remedy upon the public interest. The public interest factors the Commission will consider include the effect that an exclusion order and cease and desist orders would have on: (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve, disapprove, or take no action on the Commission’s determination. See Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

WRITTEN SUBMISSIONS: The parties to the investigation are requested to file written submissions on the issue identified in this notice. Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the recommended determination by the ALJ on remedy and bonding.

In its initial written submission, AMD is also requested to identify the remedy sought and to submit proposed remedial orders for the Commission's consideration. AMD is further requested to state the dates that the asserted patents expire, to provide the HTSUS subheadings under which the accused products are imported, and to supply the identification information for all known importers of the products at issue in this investigation.

The initial written submissions and proposed remedial orders must be filed no later than close of business on **October 30, 2023**. Reply submissions must be filed no later than the close of business on **November 6, 2023**. No further submissions on these issues will be permitted unless otherwise ordered by the Commission. Opening submissions are limited to 40 pages. Reply submissions are limited to 25 pages. No further submissions on any of these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. The Commission's paper filing requirements in 19 CFR 210.4(f) are currently waived. 85 FR 15798 (Mar. 19, 2020). Submissions should refer to the investigation number (Inv. No. 337-TA-1318) in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf). Persons with questions regarding filing should contact the Secretary (202-205-2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment by marking each document with a header indicating that the document contains confidential information. This marking will be deemed to satisfy the request procedure set forth in Rules 201.6(b) and 210.5(e)(2) (19 CFR 201.6(b) & 210.5(e)(2)). Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. Any non-party wishing to submit comments containing confidential information must serve those comments on the parties to the investigation pursuant to the applicable Administrative Protective Order. A redacted non-confidential version of the document must also be filed with the Commission and served on any parties to the investigation within two business days of any confidential filing. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection on EDIS.

The Commission vote for this determination took place on October 16, 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 CFR Part 210).

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', enclosed within a large, loopy oval shape.

Lisa R. Barton
Secretary to the Commission

Issued: October 16, 2023