



INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-941]

Certain Graphics Processing Chips, Systems on a Chip, and Products Containing the Same Commission Determination to Grant a Joint Motion to Terminate the Investigation on the Basis of a Settlement Agreement; 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 determined to grant a joint motion to terminate the above-captioned investigation based on a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Ron Traud, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, (202) 205-3427. 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, S.W., Washington, D.C. 20436, (202) 205-2000. General information concerning the Commission may also be obtained at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on December 30, 2014, based on a complaint filed by Samsung Electronics Co., Ltd. of Gyeonggi-do, Republic of Korea, and Samsung Austin Semiconductor, LLC of Austin, Texas (collectively, Complainants). 79 FR 78477-78 (Dec. 30, 2014). The complaint alleges violations of section

337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain graphics processing chips (GPUs), systems on a chip (SoCs), and products containing the same by reason of infringement of one or more of claims 1–4, 6, and 19–21 of U.S. Patent No. 6,147,385 (the ‘385 patent); claim 10 of U.S. Patent No. 6,173,349 (the ‘349 patent); claims 1, 2, 4, 19, 20, and 22 of U.S. Patent No. 7,056,776 (the ‘776 patent); and claims 1–3, 7–9, 12–15, 17, and 19 of U.S. Patent No. 7,804,734 (the ‘734 patent). *Id.* The notice of investigation named as respondents NVIDIA Corporation (NVIDIA) of Santa Clara, California; Biostar Microtech International Corp. of New Taipei, Taiwan; Biostar Microtech U.S.A. Corp. of City of Industry, California; Elitegroup Computer Systems Co. Ltd. of Taipei, Taiwan; Elitegroup Computer Systems, Inc. of Newark, California; EVGA Corp. of Brea, California; Fuhu, Inc. of El Segundo, California; Jatou Corp. of Fremont, California; Mad Catz, Inc. of San Diego, California; OUYA, Inc. of Santa Monica, California; Sparkle Computer Co., Ltd. of New Taipei City, Taiwan; Toradex, Inc. of Seattle, Washington; Wikipad, Inc. of Westlake Village, California; ZOTAC International (MCO) Ltd of New Territories, Hong Kong; and ZOTAC USA, Inc. of Chino, California (collectively, Respondents). *Id.* The Office of Unfair Import Investigations (OUII) is also a party to this investigation. *Id.*

On May 1, 2015, the Commission determined not to review an initial determination terminating the investigation as to respondent Wikipad, Inc. Notice of Commission Determination Not to Review an Initial Determination Terminating the Investigation as to Respondent Wikipad, Inc. Based on a Consent Order Stipulation, Consent Order, and Settlement Agreement; Issuance of Consent Order (May 1, 2015) (determining not to review Order No. 6 (Apr. 1, 2015)). On July 1, 2015, the Commission determined not to review an initial

determination terminating the investigation with respect to the '776 patent. Notice of Commission Determination Not to Review an Initial Determination Terminating the Investigation with Respect to U.S. Patent No. 7,056,776 (July 1, 2015) (determining not to review Order No. 9 (June 9, 2015)). On August 13, 2015, the Commission determined not to review an initial determination finding that the economic prong of the domestic industry requirement has been satisfied. Notice of a Commission Determination Not to Review an Initial Determination That the Economic Prong of the Domestic Industry Requirement Has Been Satisfied (Aug. 13, 2015) (determining not review Order No. 12 (July 16, 2015)). On September 17, 2015, the Commission determined not to review (1) an initial determination terminating the investigation as to claims 19–21 of the '385 patent and claims 7–9, 12–15, 17, and 19 of the '734 patent; and (2) an initial determination terminating the investigation as to respondent ZOTAC International (MCO) Ltd. Notice of Commission Decision Not to Review Two Initial Determinations That Terminated the Investigation as to Certain Asserted Patent Claims and as to One Respondent (Sept. 17, 2015) (determining not to review Order No. 23 (Aug. 26, 2015) and Order No. 25 (Aug. 26, 2015)).

The following claims remained at issue for consideration by the ALJ: claims 1–4 and 6 of the '385 patent; claim 10 of the '349 patent; and claims 1 and 3 of the '734 patent. On December 22, 2015, the ALJ issued his final ID, which found a violation of all three remaining patents. *See* ID at 1. On January 5, 2016, the ALJ issued his recommended determination on remedy and bond (RD), which recommended the issuance of a limited exclusion order covering all of the infringing articles imported, sold for importation, or sold after importation by the remaining respondents. RD at 9. The RD also recommended the issuance of cease and desist orders to

certain domestic respondents. *Id.* at 14. The RD additionally set a bond in the amount of 4% of the average value of the accused GPUs and SoCs. *Id.* at 17.

The remaining respondents and OUII filed petitions for review, and OUII, and Complainants filed responses to the petitions. On February 24, 2016, the Commission determined to review some of the petitioned issues. 81 FR 10654 (Mar. 1, 2016). On March 7, 2016, the parties filed written submissions on the issues under review, remedy, the public interest, and bonding. On March 14, 2016, the parties filed reply submissions. No submissions were received from the public.

On April 29, 2016, and prior to the Commission's final determination, the private parties indicated that they had reached a settlement agreement. On May 16, 2016, the private parties filed a joint motion to terminate the investigation on the basis of that settlement pursuant to Commission Rule § 210.21(b). An amended version of the joint motion (the Corrected Joint Motion) was filed on May 19, 2016. The motion to terminate is based on a Memorandum of Understanding Regarding Settlement Agreement (MOU), a binding agreement between Samsung Electronics and NVIDIA. The Corrected Joint Motion declares that the MOU "completely resolves the disputes between all parties with respect to the asserted patents," that there are "no other agreements, written or oral, express or implied, between them concerning the subject matter of this investigation," and that "it is in the interest of the public and administrative economy to grant this motion." Corrected Joint Mtn. at 2. The Corrected Joint Motion includes confidential and public versions of the MOU. On May 26, 2016, OUII filed a submission supporting the termination of the investigation. No other party filed a response to the Corrected Joint Motion.

The Commission has determined that the Corrected Joint Motion complies with the requirements of section 210.21(b)(1) of the Commission's Rules of Practice and Procedure (19 CFR 210.21(b)(1)), and that there are no extraordinary circumstances that would prevent the requested termination. The Commission also finds that granting the Corrected Joint Motion would not be contrary to the public interest pursuant to section 210.50(b)(2) of the Commission's Rules of Practice and Procedure (19 CFR 210.50(b)(2)). Accordingly, the Commission hereby grants the Corrected Joint Motion. This investigation is terminated.

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.

Issued: June 16, 2016.

Lisa R. Barton,
Secretary to the Commission.

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