



INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1318 (Modification)]

Certain Graphics Systems, Components Thereof, and Digital Televisions Containing the Same; Notice of Commission Determination to Institute a Modification Proceeding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to institute a modification proceeding as to the limited exclusion order (“LEO”) issued against Realtek Semiconductor Corporation (“Realtek”) of Hsinchu, Taiwan in the underlying investigation.

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; 8,760,454; 11,184,628; 8,468,547; and 8,854,381 (“the ’381 patent”). *Id.* at 34718. The complaint further alleges that a domestic industry exists.

Id. The notice of investigation 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; and (14) Realtek. *Id.* at 34719, as amended, 87 FR 62452-53 (Oct. 14, 2022). The Office of Unfair Import Investigations was not named as a party to this investigation. 87 FR at 34719.

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

On January 24, 2024, the Commission issued a final determination finding a violation of section 337 by Realtek and TCL with respect to claims 19 and 20 of the ’381 patent. 89 FR 5934-35 (Jan. 30, 2024); *see* Comm’n Opinion (Jan. 24, 2024). The products adjudicated as infringing each incorporate graphics processing units (“GPUs”) designed and supplied by non-party ARM, Inc. (“ARM”). Comm’n Op. at 14. The Commission determined that the appropriate remedy is: (i) an LEO against Realtek’s and TCL’s infringing products and (ii) cease and desist orders (“CDOs”) against each of the TCL entities, but not against Realtek. 89 FR at 5935. The Commission also set the bond during the period of Presidential review at zero (0) percent of the entered value of the infringing articles. *Id.*

On February 1, 2024, Realtek filed a petition for reconsideration of the following

sentence on page 59 of the Commission’s Opinion: “The Commission has determined not to limit the remedial orders to ‘GPUs with an ARM architecture.’” On May 6, 2024, the Commission denied Realtek’s petition for reconsideration, reiterating that the LEO covers any of Realtek’s infringing products that are within the scope of the investigation, including those containing GPUs manufactured by entities other than ARM. *See* Comm’n Notice (May 7, 2024).

On March 28, 2024, Realtek filed an appeal from the Commission’s final determination with the U.S. Court of Appeals for the Federal Circuit. *See Realtek Semiconductor Corp. v. ITC*, Appeal Nos. 24-1613. That appeal remains pending.

On April 1, 2024, AMD and TCL filed a joint petition to modify in part the LEO as to TCL and rescind the CDOs against TCL based on a settlement agreement. On April 12, 2024, AMD and TCL filed a joint corrected petition to modify and rescind. On April 30, 2024, the Commission determined not to institute the requested modification and rescission proceedings due to the petition’s failure to comply with the Commission’s rules. *See* Comm’n Notice (May 1, 2024). The Commission specified that the determination not to institute was without prejudice. *Id.* On May 7, 2024, AMD and TCL filed a second corrected joint petition to modify and rescind. The second corrected petition is currently pending before the Commission.

On April 19, 2024, pursuant to 19 U.S.C. 1337(k) and Commission Rule 210.76(a) (19 CFR 210.76(a)), Realtek filed a petition to institute a modification proceeding as to the LEO based on a changed condition of fact. Specifically, Realtek contends that, on information and belief, non-party ARM—which supplied the GPUs contained in Realtek’s products adjudicated as infringing the ’381 patent—recently acquired a license to the ’381 patent. On May 1, 2024, AMD filed a response opposing the petition. On May 3, 2024, Realtek submitted a letter to the Secretary in reply to AMD’s opposition. On May 9, 2024, AMD submitted a letter to the Secretary in response to Realtek’s letter.

The Commission, having reviewed the record in this investigation, including Realtek’s petition, AMD’s response thereto, Realtek’s letter in reply, and AMD’s letter in response to

Realtek's letter, has determined that Realtek's petition complies with the Commission's rules. Accordingly, the Commission has determined that institution of a modification proceeding is warranted under 19 U.S.C. 1337(k) and 19 CFR 210.76. The Commission has further determined to delegate the proceeding to a presiding administrative law judge ("ALJ"). For the modification proceeding so instituted, the Chief Administrative Law Judge, shall designate the presiding ALJ. The presiding ALJ shall submit a recommended determination within six (6) months after publication of notice of this Order in the *Federal Register*. AMD and Realtek are named as parties to the modification proceeding.

The Commission vote for this determination took place on May 21, 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.

Issued: May 21, 2024.

Lisa Barton,

Secretary to the Commission.

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