

when the Commission concludes the investigation. On April 10, 2009, Tessera, the IA, Respondents, and several interested non-parties filed initial written submissions in response to the Commission's request for additional briefing on remedy. Respondent Spansion did not submit any briefing in response to the Commission's request. On April 20, 2009, Tessera, the IA, Respondents, and the SPIL Respondents filed reply submissions in response to the Commission's request for additional briefing on remedy. On April 20, 2009, the Commission issued a Notice in response to a motion from Broadcom extending the due date for reply submissions from interested non-parties to April 29, 2009, since the public versions of the parties' initial submissions were not due to be filed until April 22, 2009. Notice of Commission Determination to Extend the Deadline for Receiving Reply Submission from Interested Parties in Response to the Commission's Request for Additional Briefing on Remedy (April 20, 2009). On April 29, 2009, the interested non-parties submitted their reply briefs.

On April 24, 2009, respondent Qualcomm filed a motion for leave to file a petition for reconsideration pursuant to 19 CFR 210.47 of the Commission's determination not to review the ID's finding that the asserted claims of the patents-in-suit are not indefinite. Qualcomm argued that the United States Patent and Trademark Office rejected as "indefinite" under 35 U.S.C. 112, ¶ 2, new claims submitted by Tessera in connection with the reexamination of U.S. Patent No. 6,133,627, one of the parent patents of the '419 patent. Tessera filed an opposition to Qualcomm's motion on April 30, 2009. The IA filed an opposition on May 4, 2009. Qualcomm filed a reply to Tessera's and the IA's oppositions on May 5, 2009.

Having examined the record of this investigation, including the ALJ's final ID, the Commission has determined to reverse the ID's determination of no violation of the '326 patent and '419 patent. Specifically, the Commission reverses the ID's finding that Respondents' accused devices do not infringe asserted claims 1, 2, 6, 12, 16–19, 21, 24–26, and 29 of the '326 patent and asserted claims 1–11, 14, 15, 19, and 22–24 of the '419 patent. The Commission further reverses the ID's conclusion regarding waiver with respect to any claims that the accused chip packages indirectly infringe the asserted claims of the '419 patent. Moreover, the Commission finds that

Respondents have contributorily infringed the asserted claims of the '419 patent. The Commission also modifies the ID's analysis concerning its finding that the '326 and '419 patents are not invalid under 35 U.S.C. 102(b) to clarify that the statute requires comparing the on-sale date of alleged prior art against the priority date of the asserted patents, not against the conception date of the asserted patents.

The Commission has determined that the appropriate form of relief is (1) a limited exclusion order under 19 U.S.C. 1337(d)(1) prohibiting the unlicensed entry of semiconductor chips with minimized chip package size and products incorporating these chips that infringe one or more of claims 1, 2, 6, 12, 16–19, 21, 24–26, and 29 of the '326 patent and claims 1–11, 14, 15, 19, and 22–24 of the '419 patent, and are manufactured abroad by or on behalf of, or imported by or on behalf of, Spansion, Qualcomm, ATI, Motorola, ST–NV, and Freescale; and (2) cease and desist orders directed to Motorola, Qualcomm, Freescale, and Spansion.

The Commission has further determined that the public interest factors enumerated in Section 337(d) and (f) (19 U.S.C. 1337(d), (f)) do not preclude issuance of the limited exclusion order and the cease and desist orders. The Commission has determined that the bond for temporary importation during the period of Presidential review (19 U.S.C. 1337(j)) shall be in the amount of 3.5% of the value of the imported articles that are subject to the order. The Commission's order was delivered to the President and the United States Trade Representative on the day of its issuance.

Additionally, the Commission denies the motion by the SPIL Respondents to extend the date for reply submissions to the Commission's Notice of Review of the final ID and to compel the production of Tessera's initial confidential briefing in response to the Commission's Notice of Review. The Commission further denies Spansion's motion for a stay of the investigation in light of the commencement of bankruptcy proceedings involving it. The Commission also denies respondent Qualcomm's motion for leave to file a petition for reconsideration of the Commission's determination not to review the ID's finding that the asserted claims of the patents-in-suit are not indefinite. Finally, the Commission denies Respondents' motion to strike the Prowse Affidavit and the Cassidy Statement.

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 sections 210.42–50 of the Commission's Rules of Practice and Procedure (19 CFR 210.42–50).

Issued: May 20, 2009.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. E9–12371 Filed 5–27–09; 8:45 am]

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## **NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**[Notice: (09–044)]**

### **Notice of Centennial Challenges—2009 Power Beaming Challenge**

**AGENCY:** National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of Centennial Challenges—2009 Power Beaming Challenge.

**SUMMARY:** This notice is issued in accordance with 42 U.S.C. 2459f–1(d). This is an update to a previous notice (09–12) on the 2009 Power Beaming and Tether Challenges. The 2009 Power Beaming Challenge is now scheduled and teams that wish to compete may register. A notice on the Tether Challenge will be issued at a later time. The NASA Centennial Challenges is a program of prize contests to stimulate innovation and competition in technologies of interest and value to NASA and the nation. The 2009 Power Beaming Challenge is a prize competition designed to promote the development of new power transmission technologies with applications in energy systems, transportation and emergency operations. Significant improvements in power beaming could contribute to revolutionary advances in space transportation as well as other areas.

The Spaceward Foundation administers the Power Beaming Challenge for NASA. The prize purse is funded by NASA.

**DATES:** The 2009 Power Beaming Challenge will be held on July 14–16, 2009.

**Location:** The 2009 Power Beaming Challenge will be held at the Dryden Flight Research Center, Edwards, California.

**FOR FURTHER INFORMATION CONTACT:** To register for and get additional information regarding the 2009 Power Beaming Challenge including rules, team agreements, eligibility and prize criteria, visit: <http://www.spaceward.org> or contact Mr. Ben Shelef at the

Spaceward Foundation, 725 N Shoreline Blvd., Mountain View, CA 94043, Phone: 650-965-2900. Questions and comments regarding the NASA Centennial Challenges Program should be addressed to Mr. Andrew Petro, NASA Headquarters, Suite 6J79, 300 E Street, SW., Washington, DC 20546, Phone: 202-358-0310. The Centennial Challenges Web site is <http://www.ip.nasa.gov/cc>.

**SUPPLEMENTARY INFORMATION:** The maximum prize purse available for the 2009 Power Beaming Challenge is \$2,000,000. Each climber, powered by beamed energy, must climb to a height of one kilometer traveling at a minimum speed. The teams with the highest score (the product of average velocity and payload mass normalized by the climber mass) will win the competition.

In the case of individuals, prizes can only be awarded to U.S. citizens or permanent residents and in the case of corporations or other entities, prizes can only be awarded to those that are incorporated in and maintain a primary place of business in the United States.

Dated: May 20, 2009.

**Douglas A. Comstock,**

*Director, Innovative Partnerships Program.*

[FR Doc. E9-12315 Filed 5-27-09; 8:45 am]

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## NUCLEAR REGULATORY COMMISSION

[NRC-2009-0217; Docket No. 030-35868]

### Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment to Byproduct Nuclear Materials License No. 06-30693-01, for Termination of the License and Unrestricted Release of the Protometrix—an Invitrogen Company Facility in Branford, CT

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Issuance of Environmental Assessment and Finding of No Significant Impact for License Amendment and Termination.

#### FOR FURTHER INFORMATION CONTACT:

Thomas K. Thompson, Sr. Health Physicist, Commercial and R&D Branch, Division of Nuclear Materials Safety, Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406; telephone (610) 337-5303; fax number (610) 337-5269; or by e-mail: [Thomas.Thompson@nrc.gov](mailto:Thomas.Thompson@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

## I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering the issuance of an amendment terminating Byproduct Materials License No. 06-30693-01. This license is held by Protometrix—an Invitrogen Company (the Licensee), for its facility located at 688 East Main Street, Branford, Connecticut (the Facility). Issuance of the amendment would authorize release of the Facility for unrestricted use and terminate the NRC license. The Licensee requested this action in a letter dated March 12, 2009. The NRC has prepared an Environmental Assessment (EA) in support of this proposed action in accordance with the requirements of Title 10, *Code of Federal Regulations* (CFR), part 51 (10 CFR part 51). Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate with respect to the proposed action. The amendment will be issued to the Licensee, and the license will be terminated, following the publication of this FONSI and EA in the **Federal Register**.

## II. Environmental Assessment

### Identification of Proposed Action

The proposed action would approve the Licensee's March 12, 2009, license amendment and termination request, resulting in release of the Facility for unrestricted use and the termination of its NRC materials license. License No. 06-30693-01 was issued on November 19, 2001, pursuant to 10 CFR part 30, and has been amended periodically since that time. This license authorizes the Licensee to use hydrogen-3, carbon-14, phosphorus-32, phosphorus-33, sulfur-35, and iodine 125 for conducting research and development.

The Facility is a one story building of approximately 13,787 square feet, consisting of warehouse spaces, office spaces, and laboratories. Within the Facility, use of licensed materials was largely confined to two small laboratories with a total area of approximately 330 square feet. The Facility is located in an industrial area. Within the Facility, the radionuclides of concern were hydrogen-3 and carbon-14 because the half-life of these isotopes is greater than 120 days.

In January 2009, the Licensee last handled byproduct materials, ceased licensed activities, and initiated a survey of the affected areas of the Facility. Based on the Licensee's historical knowledge of the site and the conditions of the Facility, the Licensee determined that only routine decontamination activities, in accordance with the NRC-approved

operating radiation safety procedures, would be required. The Licensee was not required to submit a decommissioning plan to the NRC because worker cleanup activities and procedures are consistent with those approved for routine operations. The Licensee conducted surveys of the Facility and provided information to the NRC to demonstrate that it meets the criteria in Subpart E of 10 CFR Part 20 for unrestricted release and for license termination.

### Need for the Proposed Action

The Licensee has ceased conducting licensed activities at the Facility, and seeks the unrestricted use of its Facility and the termination of its NRC materials license. Termination of its license would end the Licensee's obligation to pay annual license fees to the NRC.

### Environmental Impacts of the Proposed Action

The historical review of licensed activities conducted at the Facility shows that such activities involved use of the following radionuclides with a half-life greater than 120 days: hydrogen-3 and carbon-14.

The Licensee conducted a final status survey in January 2009. This survey covered the areas of use in the Facility. The final status survey report was received March 12, 2009. The Licensee demonstrated compliance with the radiological criteria for unrestricted release as specified in 10 CFR 20.1402 by using the screening approach described in NUREG-1757, "Consolidated Decommissioning Guidance," Volume 2. The radionuclide-specific derived concentration guideline levels (DCGLs), developed by the NRC, which comply with the dose criterion in 10 CFR 20.1402. These DCGLs define the maximum amount of residual radioactivity on building surfaces, equipment, and materials, and in soils, that will satisfy the NRC requirements in Subpart E of 10 CFR Part 20 for unrestricted release. The Licensee's final status survey results were below these DCGLs and are in compliance with the As Low As Reasonably Achievable (ALARA) requirement of 10 CFR 20.1402. The NRC thus finds that the Licensee's final status survey results are acceptable.

Based on its review, the staff has determined that the affected environment and any environmental impacts associated with the proposed action are bounded by the impacts evaluated by the "Generic Environmental Impact Statement in Support of Rulemaking on Radiological