

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1308]

Certain Power Semiconductors, and Mobile Devices and Computers Containing Same Notice of a Commission Determination To Review in Part and, on Review, To Affirm a Final Initial Determination Finding No Violation of Section 337; Termination of Investigation

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in part and, on review, to affirm a final initial determination (“ID”) issued by the presiding administrative law judge (“ALJ”) finding no violation of section 337. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Paul Lall, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-2043. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission’s electronic docket system (“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 April 1, 2022, based on a complaint filed on behalf of Arigna Technology Limited (“Arigna”) of Dublin, Ireland. 87 FR 19124-25 (Apr. 1, 2022). The complaint, as amended and supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain power semiconductors, and mobile devices and computers containing same by reason of infringement of claims 1 and 2 of U.S. Patent No. 7,183,835 (“the ‘835 Patent”) The Commission’s notice of investigation named thirteen (13) respondents: (1) Samsung Electronics Co., Ltd. of Suwon, Republic of Korea and Samsung Electronics America, Inc.

of Ridgefield Park, New Jersey (collectively, “the Samsung Respondents”); (2) Google LLC of Mountain View, California; Lenovo Group Ltd. of Beijing, China; Lenovo (United States) Inc. of Morrisville, North Carolina; Motorola Mobility LLC of Chicago, Illinois; Microsoft Corporation of Redmond, Washington; and OnePlus Technology (Shenzhen) Co., Ltd. of Guangdong, China (collectively, “the Additional Settling Respondents”); (3) TCL Electronics Holdings Limited and TCL Communication Limited, both of Hong Kong Science Park, Hong Kong; TTE Technology Inc. of Corona, California; and TCT Mobile (USA) Inc. of Irvine, California (collectively, “the TCL Respondents”); and (4) Apple Inc. of Cupertino, California. The Office of Unfair Import Investigations is participating in the investigation.

On December 8, 2022, the Commission terminated this investigation as to the Samsung Respondents and the Additional Settling Respondents based on respective settlement and license agreements. (Order Nos. 24, 25) (Nov. 10, 2022), *unreviewed by Comm’n Notice* (Dec. 8, 2022).

The presiding ALJ held an evidentiary hearing in this investigation on February 13-17, 2023.

On June 7, 2023, the Commission terminated this investigation as to the TCL Respondents based on a settlement agreement. Order No. 51, *unreviewed by Comm’n Notice* (June 7, 2023).

On May 18, 2023, the presiding ALJ issued the subject ID finding no violation of section 337 because: (1) Arigna failed to prove that the accused Qualcomm Chips or Qorvo Chips infringe the asserted claims of the ‘835 Patent; (2) Arigna failed to satisfy the technical prong of the domestic industry requirement; and (3) Arigna failed to satisfy the economic prong of the domestic industry requirement. The ID also finds that the asserted claims of the ‘835 patent have not been shown to be invalid as anticipated and/or obvious in view of certain asserted prior art or for lack of written description.

No party filed a petition for review of the subject ID.

Having reviewed the record of the investigation, including the final ID and the parties’ submissions to the ALJ, the Commission has determined to review the ID in part and, on review, to affirm the ID’s finding that Arigna has not satisfied the economic prong of the domestic industry requirement.¹ The

¹ On review, Commissioner Karpel notes that she disagrees with the ID’s *per se* exclusion of investments in post-sale technical service and

Commission has determined not to review the remainder of the final ID. The investigation is hereby terminated.

The Commission vote for this determination took place on July 17, 2023.

The authority for the Commission’s determinations 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: July 17, 2023.

Lisa Barton,

Secretary to the Commission.

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DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On July 13, 2023, the Department of Justice lodged a proposed consent decree with the United States District Court for the Northern District of New York in *United States v. Upstate Shredding, LLC, and Weitsman Shredding, LLC*, 3:23-cv-847 (N.D.N.Y.).

The United States filed a complaint against Upstate Shredding, LLC and Weitsman Shredding, LLC (“Upstate”) under section 113(a)(1) of the Clean Air

support, including field engineering and product line marketers, who engage in customer-facing engineering activities as non-qualifying investments. In her view, the statute does not require the *per se* exclusion of plant and equipment investments or employment of labor or capital in customer-facing engineering activities with respect to articles protected by a patent, whether or not they are characterized as sales and marketing. *See Certain Artificial Eyelash Extension Systems, Products Containing Same, and Components Thereof*, Inv. No. 337-TA-1226, Separate Views of Commissioners Karpel and Schmidlein, at 35-36 (Oct. 24, 2022) (“There is no statutory prohibition against inclusion of these types of expenses; rather, the key is whether the expenses properly fall within (A) or (B).”); *Certain Vacuum Insulated Flasks and Components Thereof*, Inv. No. 337-TA-1216, Comm’n Notice, 86 FR 59424, 49425 (Oct., 27, 2021) (“As the Commission has previously stated, “[w]hile marketing and sales activity, alone, may not be sufficient to meet the domestic industry test, those activities may be considered as part of the overall evaluation of whether or not a Complainant meets the economic prong.” (quoting *Certain Solid State Storage Drives, Stacked Electronics Components, and Products Containing the Same*, Inv. No. 337-TA-1097, Comm’n Op. at 22 (June 29, 2018)). In this investigation, Arigna has failed to establish that any articles practice one or more claims of the ‘835 patent, and thus Arigna cannot satisfy the domestic industry requirement regardless of the magnitude or alleged significance of Microchip expenditures considered for the economic prong of the domestic industry requirement.