

14. P-SMBP, Kansas: Water service contracts with Kirwin and Webster IDs in the Solomon River Basin in Kansas were extended for a period of 4 years in accordance with Public Law 104-326 enacted October 19, 1996. Water service contracts will be renewed prior to expiration.

21. Lower Marias Unit, P-SMBP, Montana: Water service contract expires in July 2000. Initiating renewal of existing contract for 25 years for up to 480 acre-feet of storage from Tiber Reservoir to irrigate 160 acres. Received approved BON from the Commissioner. Currently performing a water availability study and consulting with the Tribes regarding the Water Rights Compact. A 1-year interim contract will be issued to continue delivery of water until the necessary actions can be completed to renew a long-term contract.

22. Lower Marias Unit, P-SMBP, Montana: Initiating 25-year water service contract for up to 750 acre-feet of storage from Tiber Reservoir to irrigate 250 acres. A 1-year temporary contract has been issued to allow additional time to complete necessary actions required for the long-term contract. Another 1-year temporary has been issued to continue delivery of water until the long-term renewal process can be completed.

23. Lower Marias Unit, P-SMBP, Montana: Water service contract expired May 2000. Initiating renewal of existing long-term contract for 25 years for up to 4,570 acre-feet of storage from Tiber Reservoir to irrigate 2,285 acres. Currently performing a water availability study and consulting with the Tribes regarding the Water Rights Compact. A 1-year interim contract has been issued to continue delivery of water until the necessary actions can be completed to renew the long-term contract. Another 1-year temporary will be issued to continue delivery of water until the long-term renewal process can be completed.

25. Savage ID, P-SMBP, Montana: A second interim contract has been entered into with the District. The District is currently seeking Title Transfer. The contract is subject to renewal on an annual basis pending outcome of the title transfer process.

29. Fryingpan-Arkansas Project, Colorado: Pueblo Board of Water Works, long-term storage contract.

31. Canyon Limited Liability (Individual), P-SMBP, Boysen Unit, Wyoming: Contract for up to 16 acre-feet of supplemental irrigation water to service 4 acres.

34. Tom Green County and Improvement District No. 1, San Angelo

Project, Texas: The irrigation district has requested a deferment of its 2000 construction payment. The deferment has been approved by the Secretary of the Interior. A public notice for this action was printed in the San Angelo Times. The 60-day comment period ends July 3, 2000.

42. Fryingpan-Arkansas Project, Colorado: Pueblo Board of Water Works, long-term conveyance contract.

4. Completed contract action:

13. Fort Shaw ID, Sun River Project, Montana: Contract for SOD costs for repairs to Willow Creek Dam. The proposed contract for the emergency repairs has been combined with the contract for repayment of additional SOD work as outlined in the approval memorandum dated November 17, 1999. Contract executed January 10, 2000.

Dated: July 17, 2000.

Wayne O. Deason,

Associate Director, Office of Policy.

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INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-395]

In the Matter of Certain Eprom, Eeprom, Flash Memory, and Flash Microcontroller Semiconductor Devices and Products Containing Same; Notice of Commission Determination To Review-in-Part an Initial Determination on Inventorship and Two Orders; Schedule for Filing Written Submissions; Denial of Motion for Leave To File a Reply

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review-in-part the final initial determination (ID) issued by the presiding administrative law judge (ALJ) on May 17, 2000, and two ALJ orders in proceedings to reconsider the Commission's determination on inventorship in the above-captioned investigation, which was instituted pursuant to section 337 of the Tariff Act of 1930, 19 U.S.C. 1337. Specifically, the Commission has determined to review: (1) ALJ Order No. 50, (2) ALJ Order No. 69, (3) the determination in the ID that the Certificate of Correction of U.S. Letters Patent 4,451,903 (the '903 patent) was procured inequitably, and (4) the determination in the ID that the

inventors named on the Certificate of Correction of the '903 patent are incorrect. The Commission has also determined to deny complainant Atmel Corp.'s Motion for Leave to File a Reply, dated June 22, 2000.

FOR FURTHER INFORMATION CONTACT: Jean Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-205-3104. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this patent-based investigation on March 18, 1997, based on a complaint filed by Atmel Corp. 62 FR 13706. The complaint named five respondents: Sanyo Electric Co., Ltd. of Japan; Winbond Electronics Corp. of Taiwan and Winbond Electronics North America Corporation of San Jose, California; and Macronix International Co., Ltd. of Taiwan and Macronix America, Inc. of San Jose, California. Silicon Storage Technology, Inc. was permitted to intervene in the investigation.

In its complaint, Atmel alleged that the respondents violated section 337 by importing into the United States, selling for importation, and/or selling in the United States after importation certain electronic products and/or components that infringe one or more of claim 1 of U.S. Letters Patent 4,511,811, (the '811 patent), claim 1 of U.S. Letters Patent 4,673,829 (the '829 patent), claims 1-9 of the '903 patent, and claim 1 of U.S. Letters Patent 4,974,565 (the '565 patent). The '565 patent was later withdrawn from the investigation by Atmel.

The ALJ issued his final ID on violation on March 19, 1998, in which he found, *inter alia*, no infringement of any of the three patents at issue, and hence no violation of section 337. The Commission reviewed the entire ID, except for the finding that claims 2-8 of the '903 patent are invalid as indefinite. After review, the Commission issued its final determination on July 2, 1998, in which it determined that the '903 patent was unenforceable for failure to name one or more co-inventors. The Commission also found that the '811 and '829 patents were invalid on the basis of collateral estoppel in light of a U.S. district court decision. 69 FR 37139 (July 9, 1998). The Federal Circuit reversed the district court decision on December 28, 1999. *Atmel Corp. v.*

Information Storage Device Inc., Appeal No. 99-1082 (Fed. Cir. 1999). Therefore, the Commission will revisit its decision concerning the '811 and '829 patents in connection with the final disposition of this investigation.

On August 21, 1998, Atmel filed a petition for correction of inventorship of the '903 patent with the U.S. Patent and Trademark Office (PTO) under PTO rule 324, 37 CFR 1.324. Atmel sought to add Anil Gupta as a co-inventor. After an *ex parte* proceeding, the PTO granted Atmel's petition on August 28, 1998. A Certificate of Correction issued from the PTO on October 6, 1998, which states that "it is hereby certified that the correct inventorship of [the '903] patent is: Larry T. Jordan and Anil Gupta." On August 28, 1998, Atmel filed a notice of appeal with the U.S. Court of Appeals for the Federal Circuit from the Commission's July 2, 1998, final determination in this investigation (Appeal No. 98-1580). The appeal was remanded to the Commission on April 16, 1999, *In re Winbond Electronics Corporation and Winbond Electronics North America Corporation*, Misc. Docket No. 579, to consider a motion filed by Atmel for reconsideration of the Commission's inventorship determination in light of the Certificate of Correction of the '903 patent issued by the PTO.

On July 20, 1999, the ALJ issued Order No. 50 which ordered Atmel to produce documents, for which it had claimed privilege, concerning the subject of "proper inventorship" of the '903 patent and to provide substantive answers to interrogatories requesting the substance of oral communications between Atmel employees and Atmel's attorneys on the "proper inventorship" of the '903 patent. ALJ Order No. 69, which issued on January 13, 2000, held that Atmel bore the burden of proof by clear and convincing evidence that the inventors shown on the Certificate of Correction are the actual inventors.

The ALJ issued his final ID on the inventorship on May 17, 2000. The ID found (1) that Atmel had committed inequitable conduct in the procurement of the Certificate of Correction, (2) that the inventors listed on the Certificate of Correction were not the correct inventors, and (3) that no inequitable conduct was shown to have taken place in the prosecution of the original patent application. On May 30, 2000, Atmel petitioned for review of ALJ Orders Nos. 50 and 69 and the ALJ's refusal in the ID to find that respondents and intervenor were judicially estopped from challenging that Anil Gupta was a co-inventor. Atmel also petitioned for review of the ALJ's rulings in the ID that

Atmel had committed inequitable conduct in the PTO correction proceedings and that the inventors listed on the Certificate of Correction were incorrect. Atmel also alleged that the ALJ exhibited such bias against Atmel that it was denied a fair hearing. The Commission investigative attorney (IA) petitioned on the same day for review of ALJ Order No. 69 and the ALJ's rulings in the ID concerning inequitable conduct and inventorship. On June 13, 2000, respondents and intervenor filed a joint response in opposition. The IA filed a response opposing in part Atmel's petition on the same date. Atmel filed a motion for leave to reply to the oppositions on June 22, 2000, which the Commission hereby denies.

Having examined the record in this investigation, including Orders Nos. 50 and 69 and the ALJ's final ID, the petitions for review, and the responses thereto, the Commission has determined to review: (1) ALJ Order No. 50, (2) ALJ Order No. 69, (3) the ALJ's determination that the Certificate of Correction of the '903 patent was procured inequitably, and (4) the ALJ's determination that the inventors named on the Certificate of Correction are incorrect.

The parties are requested to brief the issues under review. The briefs should include a discussion of, but are not restricted to, the following questions:

(1) Which of the ALJ's findings concerning his determination of inequitable conduct, if any, are based on documents in the record as to which Atmel has never claimed privilege? Does any other evidence in the record, as to which Atmel has never claimed privilege, exist that would support a finding of inequitable conduct? Which of the ALJ's findings concerning inequitable conduct are supported by documents in the record as to which Atmel has claimed work product privilege? Which of the ALJ's findings concerning inequitable conduct are supported by documents in the record as to which Atmel has claimed attorney-client privilege only?

(2) Which of the ALJ's findings concerning his determination that the correct inventors are not listed on the Certificate of Correction of the '903 patent are supported by documents in the record as to which Atmel has claimed privilege (please specify whether attorney-client or work product privilege)?

(3) What evidence of record corroborates a finding that Dr. Smarandou and Mr. Perlogos implemented Silicon Signature in the 5133 EPROM before Mr. Gupta implemented Silicon Signature in the 5213 EEPROM? What evidence of record corroborates a finding that Mr. Gupta implemented Silicon Signature in the 5213 EPROM before Dr. Smarandou and Mr. Perlogos implemented Silicon Signature in the 5213 EEPROM?

(4) What legal authority or policy considerations support the finding that the

burden of coming forward with evidence and the burden of proof by clear and convincing evidence should be applied to patent correction proceedings at the U.S. Patent and Trademark Office?

(5) Under what authority is the Commission required to accord the presumption of validity to a certificate of correction concerning inventorship issued by the U.S. Patent and Trademark Office?

(6) Is the Commission empowered to find that a regulation issued by the U.S. Patent and Trademark Office is *ultra vires*?

The Commission intends to dispose of all outstanding issue in this investigation, including the remaining issues concerning the '811 and '829 patents, at the same time. Accordingly, if the Commission finds in connection with the final disposition of this investigation that there has been a violation of section 337, the Commission may issue (1) an 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 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 *In the Matter of Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843 (December 1994) (Commission Opinion).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or 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 President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under

a 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.

Written Submissions: The parties to the investigation are requested to file written submissions on the issues under review. The submissions should be concise and, where applicable, thoroughly referenced to the record in this investigation. Respondents and intervenor are encouraged to file a joint submission. Additionally, the parties to the investigation, interested government agencies, and any other interested persons are encouraged to file written submissions on remedy, the public interest, and bonding. Such submissions should address the March 19, 1998, recommended determination of the ALJ. Persons who have already filed such submissions, including the parties, may simply update their previously filed submissions.

Complainant and the Commission investigative attorney are also requested to update the proposed remedial orders that they have already submitted for the Commission's consideration. The written submissions and updated proposed remedial orders must be filed no later than close of business on July 31, 2000. Reply submissions must be filed no later than the close of business on August 7, 2000. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file with the Office of the Secretary the original document and 14 true copies thereof on or before the deadlines stated above. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See section 201.6 of the Commission's Rules of Practice and Procedure, 19 CFR 201.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and sections 210.42–210.51 of the Commission's

Rules of Practice and Procedure, 19 CFR 210.42–210.51.

Copies of the public version of the ID, and all other nonconfidential 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, telephone 202–205–2000. Public documents are also available for downloading from the Commission's website, <http://www.usitc.gov>.

Issued: July 17, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–18511 Filed 7–20–00; 8:45 am]

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INTERNATIONAL TRADE COMMISSION

[Investigation No. TA–204–3]

Lamb Meat: Monitoring Developments in the Domestic Industry

AGENCY: International Trade Commission.

ACTION: Institution and scheduling of an investigation under section 204(a) of the Trade Act of 1974 (19 U.S.C. 2254(a)) (the Act).

SUMMARY: The Commission instituted the investigation for the purpose of preparing the report to the President and the Congress required by section 204(a)(2) of the Trade Act of 1974 on the results of its monitoring of developments with respect to the domestic lamb meat industry since the President imposed a tariff-rate quota on imports of fresh, chilled, or frozen lamb meat¹ effective July 22, 1999.

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 206, subparts A and F (19 CFR part 206).

Background

Following receipt of a report from the Commission in April 1999 under section 202 of the Trade Act of 1974 (19 U.S.C. 2252) containing an affirmative determination and remedy recommendation, the President, on July

7, 1999, pursuant to section 203 of the Trade Act of 1974 (19 U.S.C. 2253), issued Proclamation 7208 (as amended by Proclamation 7214 of July 30, 1999), imposing import relief in the form of a tariff-rate quota on imports of fresh, chilled, or frozen lamb meat for a period of 3 years and 1 day, effective July 22, 1999. Section 204(a)(1) of the Trade Act of 1974 (19 U.S.C. 2254(a)(1)) requires that the Commission, so long as any action under section 203 of the Trade Act remains in effect, monitor developments with respect to the domestic industry, including the progress and specific efforts made by workers and firms in the domestic industry to make a positive adjustment to import competition. Section 204(a)(2) requires that whenever the initial period of an action under section 203 of the Trade Act exceeds 3 years, the Commission shall submit a report on the results of the monitoring under section 204(a)(1) to the President and the Congress not later than the mid-point of the initial period of the relief, or by January 22, 2001, in this case. Section 204(a)(3) requires that the Commission hold a hearing in the course of preparing each such report.

EFFECTIVE DATE: July 17, 2000.

FOR FURTHER INFORMATION CONTACT:

Sioban Maguire (202–708–4721), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION:

Participation in the investigation and service list.—Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, not later than 14 days after publication of this notice in the **Federal Register**. The Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Public hearing.—As required by statute, the Commission has scheduled a hearing in connection with this

¹ Lamb meat is classified in subheadings 0204.10.00, 0204.22.20, 0204.23.20, 0204.30.00, 0204.42.20, and 0204.43.20 of the Harmonized Tariff Schedule of the United States.