

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

In the Matter of

**CERTAIN DATA STORAGE SYSTEMS AND
COMPONENTS THEREOF**

Investigation No. 337-TA-471

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION TERMINATING THE INVESTIGATION ON THE BASIS OF A
SETTLEMENT AGREEMENT**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's ("ALJ's") initial determination ("ID") granting a joint motion to terminate the above-captioned investigation on the basis of a settlement agreement. The Commission has also determined that ALJ Order No. 47, which granted respondents' motion for summary determination of non-infringement of asserted claims 5-8 of U.S. Patent 6,108,748 ("the '748 patent"), is moot in view of the termination of the investigation.

FOR FURTHER INFORMATION CONTACT: Timothy P. Monaghan, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-3152. Copies of all 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. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on May 9, 2002, based on a complaint filed by EMC Corporation of Hopkinton, Massachusetts ("EMC"), against Hitachi, Ltd. of Tokyo, Japan, and Hitachi Data Systems Corporation of Santa Clara, California ("Hitachi"). 67 Fed. Reg. 34472 (2002). The complaint alleges violations of section 337 in the importation and sale of certain data storage systems or components thereof by reason of infringement of certain claims of

complainant's U.S. Patent Nos. 5,742,792; 5,544,347; 6,092,066; 6,101,497; 5,909,692, and the '748 patent.

On January 24, 2003, the administrative law judge ("ALJ") issued an ID (Order No. 47) granting respondents' motion for summary determination of non-infringement of asserted claims 5-8 of the '748 patent. On January 30, 2003, EMC and Hitachi entered into a memorandum of understanding ("MOU") which provides for the settlement of the investigation. On February 12, 2003, EMC, Hitachi, and the Commission investigative attorney ("IA") filed a joint motion to stay the procedural schedule in order to provide sufficient time for EMC and Hitachi to conclude their settlement agreement and to file a motion to terminate the investigation. On February 14, 2003 the Commission, *sua sponte*, extended the administrative deadline for determining whether to review Order No. 47 by sixty two (62) days, *i.e.*, until April 28, 2003.

On February 27, 2003, EMC and Hitachi filed a joint motion to terminate the investigation on the basis of the agreed settlement outlined in the MOU. The IA supported the joint motion. On March 11, 2003, the ALJ issued an ID (Order No. 51) granting the motion to terminate the investigation. No party petitioned for review of Order No. 51.

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 section 210.42 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.42).

By order of the Commission.

Marilyn R. Abbott
Secretary to the Commission

Issued: March 28, 2003