

under APO. In spite of the public reprimand at that time, Mr. Aitken substantially participated in the *Hot Rolled Steel Products* investigations with a lawyer who was inexperienced in Commission title VII investigations, but who, despite his inexperience with Commission investigations, was named lead attorney and APO Compliance Officer for the firm. Although Mr. Aitken participated in the drafting of the confidential version of the brief, he did not participate in the preparation of the public version of the brief where historically his firm has committed most of its APO breaches. The Commission found that as the senior name partner in the firm with many years of experience in title VII investigations, Mr. Aitken failed in his obligations under the APO by not participating in the preparation of the public brief and/or supervising the other attorney more closely to prevent the next in a lengthy series of APO breaches that has been caused by various members of Mr. Aitken's firm.

Business proprietary information received from private parties plays an important role in Commission investigations. The Commission's ability to obtain such information depends on the confidence of the submitting parties that their proprietary information will be protected.

Bruce Aitken is reprimanded for breaching the APO in the *Hot Rolled Steel Products* investigations as stated above and for committing multiple APO breaches over a relatively short period of time.

The Commission determined to suspend Mr. Aitken's access to APO information for a period of six months from the date of publication of this notice in the **Federal Register**. In addition, the Commission directs the law firm of Aitken Irvin Berlin & Vrooman, LLP to have at least two attorneys review all documents to be filed with the Commission for APO compliance, to so certify to the Commission on an annual basis, and to continue that practice for five years commencing with the date of the publication of this notice in the **Federal Register**.

The authority for this action is conferred by section 207.7(d) of the Commission's rules of practice and procedure (19 CFR 207.7(d)).

By order of the Commission.

Issued: December 9, 2003.

**Marilyn R. Abbott,**  
Secretary.

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## INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-481]

### In the Matter of Certain Display Controllers With Upscaling Functionality and Products Containing Same; Notice of Commission Decision to Review in Part A Final Initial Determination Finding No Violation of Section 337; Schedule for Filing Written Submissions on the Issues Under Review and on Remedy, the Public Interest, and Bonding

**AGENCY:** 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 October 20, 2003, finding no violation of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, in the above-captioned investigation.

#### FOR FURTHER INFORMATION CONTACT:

Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205-3115. Copies of the ALJ's 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, SW., Washington, DC 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) at <http://edis.usitc.gov>.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on October 18, 2002, based on a complaint filed by Genesis Microchip (Delaware) Inc. ("Genesis") of Alviso, California, against Media Reality Technologies, Inc. of Sunnyvale, California; Trumpion Microelectronics, Inc. of Taipei, Taiwan; and SmartASIC, Inc. ("SmartASIC") of San Jose, California. 67 FR 64411 (October 18, 2002). The complaint alleges violations of section 337 of the Tariff Act of 1930 in the importation and sale of certain

display controllers with upscaling functionality and products containing same by reason of infringement of certain claims of U.S. Patent No. 5,738,867 ("867 patent").

On January 14, 2003, the ALJ issued an ID (Order No. 6) terminating respondent SmartASIC from the investigation on the basis of a settlement agreement. On February 12, 2003, the Commission issued a notice of its decision not to review that ID (Order No. 6).

The evidentiary hearing in this investigation was held from July 14, 2003, through July 25, 2003. On October 20, 2003, the ALJ issued his final ID in which he found that there was no violation of section 337. All the parties to the investigation, including the Commission investigative attorneys filed timely petitions for review of various portions of the final ID, and all of them filed timely responses to the petitions.

Having examined the record in this investigation, including the ALJ's final ID, the petitions for review, and the responses thereto, the Commission has determined to review:

- (1) The ALJ's construction of the claim term "pixel data";
- (2) The ALJ's construction of the "wherein" clause;
- (3) The ALJ's construction of the claim limitation "receiving means";
- (4) All of the ALJ's non-infringement findings;
- (5) The ALJ's finding that complainant Genesis does not practice any claims of the '867 patent;
- (6) The ALJ's finding that the Spartan reference does not anticipate (*i.e.*, invalidate) the asserted claims of the '867 patent; and

(7) The ALJ's finding that the ACUTY Application Note does not anticipate the asserted claims of the '867 patent.

The Commission has determined not to review the remainder of the final ID.

On review, the Commission requests briefing, based on the evidentiary record, on the issues under review, and is particularly interested in receiving answers to the following questions:

1. What intrinsic and, to the extent it is applicable, extrinsic evidence supports your position on the issue of whether "the time to provide said plurality of destination pixel data" in the "wherein" clause includes the time to provide inactive pixels in a destination image frame?

2. What intrinsic and, to the extent it is applicable, extrinsic evidence supports your position on the issue of whether "a period to receive said source pixel data" in the "wherein" clause