

claims of the '258 patent. He found that claims 4, 9, and 26 of the '531 patent and claim 35 of the '258 patent are invalid due to anticipation. He further found that a domestic industry exists that practices the '258 patent, but that there is no domestic industry that practices the '531 patent, because of a failure to meet the technical prong of the domestic industry requirement.

On July 24, 2007, the Commission determined to review the ID in part. 72 Fed. Reg. 41774-75 (July 24, 2007). Specifically, the Commission determined to review claim construction, infringement, and validity of the '258 patent, but determined not to review the ID regarding the '531 patent (except for one issue on which it took no position). On September 24, 2007, after review, the Commission issued its final determination in the investigation with respect to the '258 patent reversing the ALJ on certain issues and finding a violation of section 337. 72 Fed. Reg. 55250-51 (Sept. 28, 2007). Specifically, the Commission found claims 2, 3, and 34 of the '258 patent not invalid and infringed by only one representative product of AATI. The Commission issued a limited exclusion order directed to AATI with regard to voltage regulators covered by claims 2, 3, and 34 of the '258 patent.

On May 21, 2009, the Court of Appeals for the Federal Circuit (“the Court”) ruled on Linear’s appeal, and AATI’s cross-appeal, of the Commission’s September 2007 final determination. *Linear Tech. Corp. v. International Trade Comm’n*, 566 F.3d 1049 (Fed. Cir. 2009). Although the Court substantially affirmed the Commission, certain aspects of the final determination were reversed or vacated. Specifically, the Court reversed the Commission’s construction of the term “monitoring the current to the load,” which appears in claim 35 of the '258 patent. The Court held that “this limitation can be satisfied by monitoring voltage to

indirectly monitor current.” *Id.* at 1060. Based on that revised construction, the Court vacated the Commission’s finding that the accused AAT1143 and AAT1146 devices do not infringe claim 35 of the ’258 patent. Similarly, the Court vacated the Commission’s finding that claim 35 is anticipated by the prior art MAX782 product, and remanded for further proceedings to determine whether “despite the fact that prior invention of the ‘monitoring the current’ limitation can be shown by prior disclosure of monitoring voltage, there is some other absent limitation that precludes” an invention date prior to the MAX782 product. *Id.* at 1068. Separately, the Court reversed the Commission and found that the accused AAT1146 device infringed claims 2, 3 and 34 of the ’258 patent. The Court vacated the Commission’s finding that the accused AAT1151 and AAT1265 devices infringe claim 34 of the ’258 patent, and remanded the issue to the Commission. *Id.* at 1065 & n.9. The Court’s mandate issued on August 26, 2009, returning jurisdiction to the Commission.

While appellate review of the September 2007 final determination was ongoing, an enforcement proceeding in this matter began. Linear filed a complaint on February 20, 2008, an amended complaint on June 18, 2008, and a second amended complaint on August 29, 2008, requesting that the Commission institute a formal enforcement proceeding against AATI under Commission rule 210.75 for violation of the September 2007 limited exclusion order. On October 1, 2008, the Commission instituted a formal enforcement proceeding. ALJ Carl Charneski presides over the proceeding, which is ongoing. In the enforcement proceeding, the ALJ granted the parties’ joint motion for partial termination of the proceeding based on the entry of a consent order specific to certain AATI products. Order No. 18, Initial Determination

Partially Terminating the Proceeding on the Basis of a Consent Order (Sept. 9, 2009). It is unclear from the record whether the consent order affects consideration of issues on remand from the Court.

Upon consideration of this matter, it is hereby ORDERED that:

(1) Within fourteen (14) days of service of this Order, the parties shall submit a joint comment regarding whether, for what issues, and for which accused products, it is warranted that further proceedings be conducted consistent with the May 21, 2009, judgment of the U.S. Court of Appeals for the Federal Circuit (“the Court”) in *Linear Technology Corp. v. International Trade Commission*, Nos. 2008-1117 & -1165, in light of Order No. 18, Initial Determination Partially Terminating the Proceeding on the Basis of a Consent Order (Sept. 9, 2009). To the extent that matters on remand from the Court remain to be decided even after Order No. 18, the parties shall further explain in their joint comment whether it is appropriate for the Commission to decide such matters itself without remand to the Chief ALJ for assignment, whether the matters should be remanded to the Chief ALJ to be consolidated with the enforcement proceeding pursuant to Commission rule 201.7(a), or whether the matters should be remanded to the Chief ALJ for assignment, but not consolidated with the enforcement proceeding.

(2) The Secretary to the Commission shall serve a copy of this Order upon each party to the investigation.

By order of the Commission.

A handwritten signature in black ink, appearing to read "Marilyn R. Abbott", written in a cursive style.

Marilyn R. Abbott
Secretary to the Commission

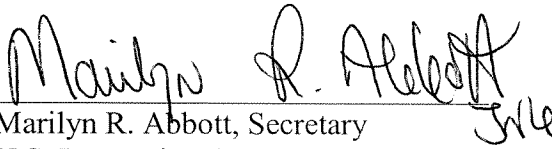
Issued: November 5, 2009

**CERTAIN VOLTAGE REGULATORS, COMPONENTS
THEREOF AND PRODUCTS CONTAINING SAME**

**337-TA-564
(Enforcement
Proceeding)**

CERTIFICATE OF SERVICE

I, Marilyn R. Abbott, hereby certify that the attached **ORDER** has been served by hand upon the Commission Investigative Attorney, Daniel L. Girdwood, Esq., and the following parties as indicated, on
November 6, 2009


Marilyn R. Abbott, Secretary
U.S. International Trade Commission
500 E Street, SW
Washington, DC 20436

**On Behalf of Complainant Linear Technology
Corporation:**

Mark G. Davis, Esq.
WEIL GOTSHAL & MANGES LLP
1300 I Street, NW
Washington, DC 20005

() Via Hand Delivery
() Via Overnight Mail
() Via First Class Mail
() Other: _____

**On Behalf of Respondent Advanced Analogic
Technologies, Inc.:**

Stephen J. Rosenman, Esq.
DECHERT LLP
1775 I Street, NW
Washington, DC 20006

() Via Hand Delivery
() Via Overnight Mail
() Via First Class Mail
() Other: _____