

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

**CERTAIN SILICON MICROPHONE
PACKAGES AND PRODUCTS
CONTAINING THE SAME**

Inv. No. 337-TA-695

ORDER NO. 18: DENYING RESPONDENT'S MOTION TO COMPEL

(May 10, 2010)

On April 23, 2010, respondent Analog Devices, Inc. ("Analog") filed a motion to compel the production of documents and things. (Motion Docket No. 695-015.) On May 5, 2010, complainant Knowles Electronics LLC ("Knowles") filed a response opposing the motion. The Commission Investigative Staff ("Staff") did not file a response.

Analog seeks an order compelling Knowles to produce documents and things related to the following categories: (1) the SOIC8 and DIP packages that Dr. Loeppert developed prior to 2003 that Analog claims are prior art to the asserted patents; (2) Knowles' interactions with the Institute of Microelectronics ("IME"); and (3) Mr. Minervini's and Dr. Loeppert's participation in the prosecution of the asserted patents. Analog states that information related to these three categories is responsive to at least Analog's Document Request Nos. 4-7, 9, 12-15, 70, 71, 74, and 75 and Interrogatory Nos. 20-23 and 36. Analog argues that Knowles refuses to produce the information based on Knowles' belief that the information is not relevant to the investigation.

Knowles opposes the motion. For each of the categories of documents and things listed by Analog, Knowles identifies what it believes are the inaccuracies in Analog's rendition of the

facts and states that it has already produced the requested discovery that is in its possession, custody, or control. Knowles denies that it has restricted its production based on its own beliefs regarding the relevancy (or lack thereof) of the subject matter raised by Analog. Knowles concludes its motion by stating:

In conclusion, Knowles states, for what will hopefully be that [*sic*] last time, that it has conducted an exhaustive search for the documents request by ADI. Every relevant and responsive document located, even those related to irrelevant prototypes for which there is no evidence of ever being sold, has been produced or listed on a privilege log. Knowles has also provided, without objection, the prototypes themselves. As tacitly hinted at throughout ADI's motion, Knowles has indeed produced all documents it could locate after diligent searches.

(Resp. at 11.)

The Commission Rules define the scope of discovery. Commission Rule 210.27 provides that a party may obtain discovery regarding any matter, not privileged, that is relevant to, *inter alia*, a claim or defense of any party. 19 CFR § 210.27(b). The rule further provides that

It is not grounds for objection that the information sought will be inadmissible at the hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

Id.

I find that in light of Knowles' unconditional representation that it has produced all discovery responsive to Analog's requests regarding the categories identified *supra*, Analog's motion to compel shall be denied. While Analog claims that Knowles is withholding responsive discovery based on a belief that it is irrelevant, Knowles confirmed that it produced the requested discovery even though it does not believe the subject matter to be relevant to the investigation.

ORDER

Motion No. 695-015 is hereby DENIED.¹

¹ Knowles' request for sanctions against Analog for Analog's filing of the current motion is hereby DENIED. (See Resp. at 11.)

PUBLIC

Within seven (7) days of the date of this Order, each party shall submit to the Office of the Administrative Law Judges a statement as to whether or not it seeks to have any portion of this document deleted from the public version. The parties' submissions may be made by facsimile and/or hard copy by the aforementioned date.

Any party seeking to have any portion of this document deleted from the public version thereof must submit to this office a copy of this document with red brackets indicating any portion asserted to contain confidential business information. The parties' submissions concerning the public version of this document need not be filed with the Commission Secretary.

SO ORDERED.



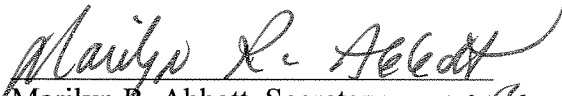
Robert K. Rogers, Jr.
Administrative Law Judge

**CERTAIN SILICON MICROPHONE PACKAGES
AND PRODUCTS CONTAINING THE SAME**

Inv. No. 337-TA-695

PUBLIC CERTIFICATE OF SERVICE

I, Marilyn R. Abbott, hereby certify that the attached **ORDER** was served upon **Maressa A. Frederick, Esq.**, Commission Investigative Attorney, and the following parties via first class mail delivery on **JUN 24 2010**


Marilyn R. Abbott, Secretary *JRA*
U.S. International Trade Commission
500 E Street SW, Room 112A
Washington, D.C. 20436

FOR COMPLAINANTS KNOWLES ELECTRONICS LLC:

Allan J. Sternstein, Esq.
DYKEMA GOSSETT PLLC
Ten South Wacker Drive
Suite 230
Chicago, IL 60606

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

FOR RESPONDENTS ANALOG DEVICES INC.:

Tom M. Schaumberg, Esq.
ADDUCI, MASTRIANI & SCHAUMBERG, LLP
1200 Seventeenth Street, NW
Fifth Floor
Washington, DC 20036

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

**CERTAIN SILICON MICROPHONE PACKAGES
AND PRODUCTS CONTAINING THE SAME**

Inv. No. 337-TA-695

PUBLIC CERTIFICATE OF SERVICE PAGE 2

PUBLIC MAILING LIST

Heather Hall
LEXIS – NEXIS
9443 Springboro Pike
Miamisburg, OH 45342

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

Kenneth Clair
THOMAS WEST
1100 Thirteenth Street NW, Suite 200
Washington, D.C. 20005

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____