

**UNITED STATES INTERNATIONAL TRADE COMMISSION**

**Washington, D.C.**

**In the Matter of**

**CERTAIN AUTOMATED MEDIA LIBRARY  
DEVICES**

**Inv. No. 337-TA-746**

**ORDER NO. 37: STRIKING BDT'S REVISED POST-HEARING REPLY BRIEF**

(January 3, 2012)

On October 13, 2011, Complainant Overland Storage, Inc. ("Overland") moved to strike certain arguments in Respondents' joint reply post-hearing brief on the basis that Respondents had failed to assert said arguments in their pre-hearing briefs or joint initial post-hearing brief.


The undersigned granted-in-part Overland's motion on October 26, 2011 and ordered Respondents to submit a revised joint reply post-hearing brief wherein all references to testing in the United States with respect to the technical domestic industry requirement were to be stricken within seven days of the date of Order No. 33. Respondents failed to do so.

On December 5, 2011, Respondents International Business Machines Corp. ("IBM") and Dell, Inc. ("Dell") were terminated from the Investigation based upon a settlement agreement. (*See* Order No. 35.) Since it was unclear from the joint post-hearing briefs what issues remained now that IBM and Dell are no longer in this Investigation, the undersigned believed it necessary for the issues in the post-hearing briefs to be narrowed to exclude all references to the settling respondents, as well as any issues that only pertained to IBM and Dell. The undersigned therefore directed Overland and Respondents BDT AG, BDT Automation Technology, BDT de Mexico, S. de R.L. de C.V., and BDT Products, Inc. (collectively, "BDT") to submit revised

post-hearing briefs no later than December 19, 2011. On December 19<sup>th</sup>, Overland and BDT both submitted revised post-hearing briefs.

Upon review of the parties' briefs, it has become apparent that BDT's "revised" reply brief includes the arguments required to be stricken by Order No. 33. BDT initially failed to comply with Order No. 33 when it chose not to submit a revised joint post-hearing reply brief within seven days of the date of Order No. 33. BDT – yet again – chose to ignore Order No. 33 when it submitted its revised post-hearing reply brief on December 19, 2011. Such blatant disregard of an Order is not only unacceptable, but shall not be tolerated. Accordingly, BDT's reply brief is hereby stricken in its entirety.

**SO ORDERED.**

  
\_\_\_\_\_  
Charles E. Bullock  
Chief Administrative Law Judge

CERTIFICATE OF SERVICE

I, James R. Holbein, hereby certify that the attached **ORDER NO. 37** has been served upon the following parties via first class mail and air mail where necessary on January 4, 2012.



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