

**PUBLIC VERSION**

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

In the Matter of

**CERTAIN INTEGRATED CIRCUITS,  
CHIPSETS, AND PRODUCTS  
CONTAINING SAME INCLUDING  
TELEVISIONS, MEDIA PLAYERS, AND  
CAMERAS**

Inv. No. 337-TA-709

**Order No. 21: Denying Motion No. 709-34 Of Certain Respondents That Complainant  
Fails To Satisfy The Technical Prong Of The Domestic Industry As To  
The '306 Patent**

On September 28, 2010, pursuant to Commission rule 210.18 and ground rule 3, respondents Panasonic Corporation, Panasonic Corporation of North America, Victor Company of Japan Limited, JVC Americas Corp., Best Buy.com, LLC, Best Buy Purchasing, LLC, Best Buy Stores, L.P., B & H Foto & Electronics Corp., Buy.com Inc., Liberty Media Corporation, QVC., Crutchfield Corporation, Wal-Mart Stores, Inc., and Computer Nerds International, Inc. (Respondents) moved for summary determination that complainant Freescale Semiconductor, Inc. (Freescale) has failed to satisfy the technical prong of the domestic industry requirement with respect to U.S. Patent No. 7,199,306 ('306 patent).<sup>1</sup> (Motion Docket No. 709-34.)

Complainant, in a filing dated October 8, 2010, argued that Motion No. 709-34 should be denied.

The staff, in a filing dated October 8, 2010, also argued that Motion No. 709-34 should be denied.

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<sup>1</sup> In support respondents included a memorandum of law with supporting exhibits and a statement of "undisputed material facts".

Summary determination “shall be rendered if pleadings and any depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” See Commission rule 210.18(b) (2010). Rule 210.18 is analogous to Rule 56 of the Federal Rules of Civil Procedure. FED. R. CIV. P. 56; see Certain Digital Processors and Digital Processing Systems, Components Thereof, and Products Containing Same, Inv. No. 337-TA-559, 2006 ITC LEXIS 522, at \* 6, Order No. 13 (Sept. 6, 2006). Summary determination is appropriate only when the relevant, material facts are so clear and beyond dispute that a hearing on the matter at issue would serve no useful purpose and the movant is entitled to judgment as a matter of law. Certain Recombinant Erythropoietin, Inv. No. 337-TA-281, 1989 ITC LEXIS 7, at \*103, Initial Determination (Jan. 10, 1989).

The moving party bears the initial burden of establishing that there is an absence of a genuine issue of material fact and it is entitled to judgment as a matter of law. Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986). If the movant satisfies its initial burden, the burden then shifts to the non-movant to demonstrate specific facts showing that there is a genuine issue for trial. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 256 (1986).

When evaluating a motion for summary determination, the evidence is to be examined in the light most favorable to the non-moving party, and all justifiable inferences are to be drawn in his favor. Anderson, 477 U.S. at 255; Certain Lens-Fitted Film Packages, Inv. No. 337-TA-406, Order No. 7 at 3 (July 10, 1998). Any doubt as to the existence of a genuine issue of material fact must be resolved in favor of the non-moving party. Certain Coated Optical Waveguide Fibers and Products Containing Same, Inv. No. 337-TA-410, Order No. 6 at 3 (July 28, 1998)(denying a

motion for summary determination of non-infringement). Summary determination is improper where “the record contains facts which, if explored and developed, might lead the Commission to accept the position of the non-moving party.” *Id.* However, “[a] party may not overcome a grant of summary judgment by merely offering conclusory statements.” TechSearch L.L.C. v. Intel Corp., 286 F.3d 1360, 1371 (Fed. Cir. 2002).

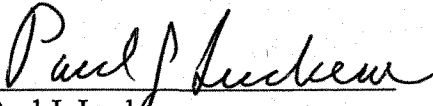
Based on the present record before the administrative law judge, as illustrated by the following responses and rebuttal by complainant to respondents’ statement of “undisputed facts”, viz. complainants’ responses and rebuttal to 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 30, 34, 38, 39, 40, 42, 44, 45, 46, 47, 49, 51, 52, 53, 55, 58, 60, 61, 62, 63, 64, 66, 67, 68, 70, 71, 72, 73, 74, 75, 76, 77, 79, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, and 102, and bearing in mind that the evidence is to be examined in the light most favorable to the non-moving party with all justifiable inferences drawn in favor of said party, the administrative law judge finds that respondents have not met their burden in establishing that complainant fails to satisfy said technical prong.<sup>2</sup>

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<sup>2</sup> The administrative law judge is making no decision in this order on whether complainant has met its burden in satisfying said technical prong.

Motion No. 709-34 is denied.

This order will be made public unless a confidential version is received no later than the close of business on October 29, 2010.

  
Paul J. Luckern  
Chief Administrative Law Judge


Issued: October 13, 2010

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337-TA-709

**PUBLIC CERTIFICATE OF SERVICE**

I, James R. Holbein, hereby certify that the attached **Public Version Order** has been served by hand upon the Office of Unfair Import Investigations, and the following parties as indicated, on  
July 27, 2011



James R. Holbein, Secretary  
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