

investigation, and has terminated the investigation. The Commission will issue an opinion shortly.

**FOR FURTHER INFORMATION CONTACT:** Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 708-2310. Copies of non-confidential 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. General information concerning the Commission may also be obtained by accessing its Internet server at <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>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on May 21, 2008, based on a complaint filed on April 18, 2008, by LSI Corporation of Milpitas, California and Agere Systems Inc. of Allentown, Pennsylvania. The complaint, as amended, alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain semiconductor integrated circuits using tungsten metallization and products containing the same by reason of infringement of one or more of claims 1, 3, and 4 of U.S. Patent No. 5,227,335. The amended complaint named numerous respondents. Several respondents have been terminated from the investigation due to settlement or failure to name the proper party. The following six respondents remain in the investigation: Tower Semiconductor, Ltd. ("Tower") of Israel; Jazz Semiconductor ("Jazz") of Newport Beach, California; Powerchip Semiconductor Corporation of Taiwan; Grace Semiconductor Manufacturing Corporation of China; Integrated Device Technology, Inc. of San Jose, California; and Nanya Technology Corporation of Taiwan. The complaint further alleged that an industry in the United States exists as required by subsection (a)(2) of section 337.

On September 21, 2009, the ALJ issued his final ID finding no violation of section 337 by the remaining

respondents. On November 23, 2009, the Commission issued notice of its determination to review-in-part the ID and issued an order remanding the investigation to the ALJ for further proceedings relating to whether claim 4 is rendered obvious by IBM Process A in light of the other prior art asserted by respondents and the Commission investigative attorney ("IA"). Specifically, the Commission determined to review: (1) Invalidity of claims 1, 3, and 4 of the '335 patent under 35 U.S.C. 102(g) & 103 with respect to IBM Process A, IBM Process B, and the AMD prior art; and (2) Jazz's stipulation regarding whether its process meets the complete, third recited step of claim 1, *i.e.*, "depositing a tungsten layer by chemical vapor deposition, said tungsten layer covering said glue layer on said dielectric and said exposed material." The Commission determined not to review the remainder of the ID. Also, the Commission requested written submissions on the ALJ's remand determination and responses to the written submissions, and briefing on remedy, the public interest, and bonding.

On January 15, 2010, the ALJ issued his remand ID finding that claim 4 is not rendered obvious by IBM Process A and other prior art asserted by respondents and the IA. On February 2 and 12, 2010, respectively, complainants and respondents each filed a brief and reply brief on the issues for which the Commission requested written submissions. On February 2 and 16, 2010, respectively, the IA filed a brief and a reply brief on the issues for which the Commission requested written submissions. Also, on February 12, 2010, Tower and Jazz filed a joint, separate reply brief.

Having reviewed the record in this investigation, including the remand and final IDs and the parties' written submissions, the Commission has determined to reverse the remand ID, and affirm-in-part, reverse-in-part, and modify-in-part the final ID. The Commission has determined that there is no violation of section 337 by the remaining respondents. Particularly, the Commission has reversed the ALJ's finding that claim 4 is invalid due to anticipation in view of IBM Process A, but has found claim 4 to be invalid due to obviousness in view of IBM Process A in combination with the other prior art asserted by the IA and respondents. Also, the Commission has affirmed the ALJ's finding that claims 1 and 3 are invalid due to anticipation in view of IBM Process A. The Commission has also modified the ALJ's ruling that Jazz

stipulated to the complete, third recited step of claim 1, and instead it has determined that Jazz's stipulation to the third step only includes the step of "depositing a tungsten layer by chemical vapor deposition." The Commission has determined to take no position on the ALJ's rulings that claims 1 and 3 are not anticipated in view of IBM Process B, claim 1 is not anticipated in view of the AMD prior art, and claims 1, 3, and/or 4 are not obvious in view of IBM Process B or the AMD prior art.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.45 of the Commission's Rules of Practice and Procedure (19 CFR 210.45).

By order of the Commission.

Issued: March 22, 2010.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

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**BILLING CODE 7020-02-P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Second Modification to Consent Decree Under Clean Air Act

Under 28 CFR 50.7, notice is hereby given that on March 19, 2010, a Second Modification ("Second Modification") to the November 2005 First Revised Consent Decree ("First Revised Consent Decree") in the case of *United States, et al. v. Marathon Ashland Petroleum LLC*, Civil Action No. 01-40119 (PVG), was lodged with the United States District Court for the Eastern District of Michigan.

Under the Second Modification, MPC must continue to comply with the First Revised Consent Decree, but, in addition, MPC will pay a civil penalty of \$408,000 and perform two Supplemental Environmental Projects valued at approximately \$963,000 at its Canton and Catlettsburg Refineries in settlement of claims that MPC violated the Benzene Waste Operations NESHAP ("BWON"), 40 CFR part 61, subpart FF, and the BWON provisions of the November 2005 First Revised Consent Decree at those two refineries. In addition, MPC will pay a stipulated penalty of \$3,933 to resolve claims involving flaring incidents at the Canton, Catlettsburg, Detroit, and Robinson Refineries. Finally, the Second Modification amends two Appendices to the First Revised Consent Decree to reflect a 2008 regulatory change that EPA made to the New

Source Performance Standards for Petroleum Refineries.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Second Modification. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either emailed to [pubcomment-ees.enrd@usdoj.gov](mailto:pubcomment-ees.enrd@usdoj.gov) or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and should refer to *United States, et al. v. Marathon Ashland Petroleum LLC*, D.J. Ref. No. 90-5-2-1-07247.

The Second Modification may be examined at the Office of the United States Attorney, 211 W. Fort St., Suite 2300, Detroit, Michigan 48226, and at U.S. EPA Region 5, 77 W. Jackson St., Chicago, IL 60604. During the public comment period, the Second Modification may also be examined on the following Department of Justice Web site: [http://www.usdoj.gov/enrd/Consent\\_Decrees.html](http://www.usdoj.gov/enrd/Consent_Decrees.html). A copy of the Second Modification may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, or by faxing or e-mailing a request to Tonia Fleetwood ([tonia.fleetwood@usdoj.gov](mailto:tonia.fleetwood@usdoj.gov)), fax number (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of \$3.75 (25 cents per page reproduction cost) payable to the U.S. Treasury, or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

**Maureen M. Katz,**

*Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 2010-6673 Filed 3-25-10; 8:45 am]

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## DEPARTMENT OF JUSTICE

### **Proposed Modification of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act**

Notice is hereby given that on February 5, 2010, a stipulation seeking to modify certain provisions of the January 27, 2005 Consent Decree entered in *United States v. Chief Consolidated Mining Company*, Civ. No. 2:04CV00891 BSJ, was filed in the United States District Court for the District of Utah.

In exchange for releasing Chief from its \$60 million confession of judgment, certain future income recapture provisions, and an obligation to sell certain on-Site, non-mining land required by the 2005 Consent Decree, the Stipulation Modifying Consent Decree substitutes a requirement for Chief to pay to the Environmental Protection Agency ("EPA") \$225,000 a year for each of the five years following the modification (total payment of \$1,125,000). The Stipulation also extends until December 31, 2013 certain provisions of the Consent Decree related to Chief's in-kind clean up contributions and provides a grant from Chief to the City of Eureka, Utah of an easement. The easement will facilitate the City's role in maintaining the integrity of EPA's Site remedy. The proposed modifications liquidate for equivalent monetary value certain obligations under the Consent Decree which Chief is no longer able to perform due to changing circumstances and are consistent with Chief's ability-to-pay limitations which were recognized in the initial settlement.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Stipulation Modifying Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to [pubcomment-ees.enrd@usdoj.gov](mailto:pubcomment-ees.enrd@usdoj.gov) or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and should refer to *United States v. Chief Consolidated Mining Company*, Civil Action. No. 2:04CV00891 BSJ, D.J. Ref. 90-11-3-07993/2.

The Stipulation Modifying Consent Decree may be examined at U.S. EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129. During the public comment period, the Stipulation Modifying Consent Decree, may also be examined on the following Department of Justice Web site, [http://www.usdoj.gov/enrd/Consent\\_Decrees.html](http://www.usdoj.gov/enrd/Consent_Decrees.html). A copy of the Stipulation Modifying Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611 or by faxing or e-mailing a request to Tonia Fleetwood ([tonia.fleetwood@usdoj.gov](mailto:tonia.fleetwood@usdoj.gov)), fax no. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy from the Consent Decree Library, exclusive of exhibits and defendants' signatures, please enclose a check in the amount of \$2.75 (25¢ per page reproduction cost) payable to the U.S.

Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address. If requesting a copy with exhibits, enclose a check in the amount of \$4.00.

**Maureen Katz,**

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## DEPARTMENT OF JUSTICE

### **Office of Justice Programs**

**[OMB Number 1121-0306]**

### **Agency Information Collection Activities: Proposed Collection; Comments Requested**

**ACTION:** 30-day notice of new information collection: Civil Justice Survey of State Courts Trials on Appeal.

The Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. The proposed information collection was previously published in the **Federal Register** Volume 75, Number 11, page 2888, on January 19, 2010, allowing for a 60-day public comment period.

The purpose of this notice is to allow an additional 30 days for public comment until April 26, 2010. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395-5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the