

Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3107.

SUPPLEMENTARY INFORMATION: The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 137), and in sections 210.45 and 210.50 of the Commission's Rules of Practice and Procedure (19 CFR §§ 210.45 and 210.50).

The Commission instituted this patent-based section 337 investigation based on a complaint filed by complainant SanDisk Corporation ("SanDisk"). Complainant alleged that respondents Samsung Electric Company, Ltd. and Samsung Semiconductor, Inc. (collectively, "Samsung") had violated section 337 of the Tariff Act of 1930, as amended (19 CFR § 1337), in the importation, sale for importation, and/or sale after importation of certain flash memory circuits by reason of infringement of claim 1, 2, or 4 of complainant's U.S. Letters Patent 5,418,752 (the '752 patent') and/or claim 27 of complainant's U.S. Letters Patent 5,172,338 (the '338 patent').

The administrative law judge ("ALJ") assigned to this investigation held an evidentiary hearing in September and October 1996. On February 26, 1997, the presiding ALJ issued an initial determination ("ID"), in which he found a violation of section 337. Specifically, the ALJ found that Samsung's so-called "original" design products directly infringe the '752 patent, and both Samsung's original and "new" design products directly infringe the '338 patent. The ALJ also found that Samsung could be held liable for contributory and/or induced infringement of the '752 patent under an alternate construction of certain patent claims in issue advocated by Samsung. However, the ALJ declined to make a determination as to whether Samsung's new design products infringe the '752 patent, citing inadequate document production by Samsung.

On March 5, 1997, the ALJ issued his recommended determination ("RD") on remedy and bonding. The ALJ recommended that the Commission issue a limited exclusion order directed toward Samsung's infringing flash memory circuits as well as to downstream products that incorporate such circuits. The ALJ also recommended that the Commission issue a cease and desist order prohibiting Samsung from selling any flash memory devices in the United

States that infringe the patent claims at issue. Finally, the ALJ recommended that the Commission require Samsung to post a bond in the amount of 100 percent of the entered value of the infringing articles during the Presidential review period.

On March 10, 1997, Samsung petitioned for review of nearly all of the ALJ's major findings, while the Commission investigative attorneys ("IAs") filed a more limited petition for review of certain findings regarding the '752 patent. SanDisk and the IAs filed responses to Samsung's petition on March 18, 1997.

On April 15, 1997, the Commission notified the parties that it had determined to review two issues raised by Samsung's petition for review: (1) Whether the ALJ erred in finding that Samsung could be held liable for contributory and/or induced infringement of the '752 patent; and (2) whether the ALJ erred in declining to make a determination as to whether Samsung's new design products infringe the '752 patent. The Commission requested that the parties brief a series of questions regarding these two issues. The Commission also asked the parties to provide written submissions on the proposed remedy, the public interest, and bonding. In accordance with the Commission's directions, the parties filed their initial briefs on April 28, 1997, and their reply briefs on May 5, 1997.

The target date for completion of this investigation was May 27, 1997. However, on May 23, 1997, the parties jointly requested that the Commission extend the target date to June 2, 1997, in order to give the parties time to finalize a settlement agreement and to file a joint motion to terminate the investigation on the basis of the settlement. The Commission granted the motion, with the stipulation that the deadline for submission of the motion to terminate was May 30, 1997. The parties, however, were unable to reach a settlement agreement and no motion to terminate was filed, with the result that the Commission is issuing its final determinations on the violation issues under review and on remedy, the public interest, and bonding on June 2, 1997.

Having reviewed the record in this investigation, including the parties' written submissions, the Commission determined: (1) To reverse the ALJ and find that Samsung is not liable for contributory infringement; (2) to reverse the ALJ and find that Samsung is not liable for induced infringement; and (3) to find that Samsung's new design products do not infringe the '752 patent due to a failure of proof.

The Commission has further determined that the appropriate form of relief is a limited exclusion order prohibiting the unlicensed entry of infringing flash memory circuits, and carriers and circuit boards containing such circuits, that are manufactured by or on behalf of Samsung. The limited exclusion order does not cover any other products that may contain the infringing circuits, whether manufactured by Samsung or a third party. The Commission has further determined to issue a cease and desist order to domestic respondent Samsung Semiconductor, Inc. prohibiting the importation, selling, marketing, distributing, or advertising of infringing flash memory circuits and carriers and circuit boards containing such circuits.

Finally, the Commission has determined that the public interest factors enumerated in subsections 1337 (d) and (f) do not preclude issuance of the limited exclusion order and cease and desist order, and that the bond during the Presidential review period shall be in the amount of one hundred (100) percent of the entered value of the articles in question.

Copies of the Commission's order, the public version of the Commission's opinion in support thereof, and all other nonconfidential 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, S.W., Washington, D.C. 20436, telephone (202) 205-2000. Hearing impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at (202) 205-1810.

Issued: June 2, 1997.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 97-14838 Filed 6-5-97; 8:45 am]

BILLING CODE 7020-01-P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-376]

Certain Variable Speed Wind Turbines and Components Thereof; Notice of Reopening of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that, in response to an order issued by the U.S.

Court of Appeals for the Federal Circuit ("the Federal Circuit") on April 24, 1997, the U.S. International Trade Commission has reopened the above-captioned investigation for further proceedings in accordance with the Federal Circuit's instructions.

FOR FURTHER INFORMATION CONTACT:

Mark D. Kelly, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-205-3106.

SUPPLEMENTARY INFORMATION: The Commission conducted this patent-based section 337 investigation in 1995 and 1996 based on a complaint filed by Kenetech Windpower, Inc., of Livermore, CA ("Kenetech") to determine whether there was a violation of section 337 in the importation, sale for importation, and/or the sale within the United States after importation of certain variable speed wind turbines and components thereof, by reason of infringement of claim 131 of U.S. Letters Patent 5,083,039 ("the '039 patent") and claim 51 of U.S. Letters Patent 5,225,712 ("the '712 patent"), both patents owned by complainant. Enercon GmbH of Aurich, Germany ("Enercon") and The New World Power Corporation of Lime Rock, Connecticut were named as respondents. The Commission found a violation of section 337 (with regard to the '039 patent only) and, in August of 1996, issued a limited exclusion order excluding the subject wind turbines and components thereof. In order to inform itself regarding the continued presence of a domestic industry, the Commission required complainant Kenetech, which had filed for protection under Chapter 11 bankruptcy, to file quarterly reports detailing its domestic industry activities.

Respondent Enercon appealed the Commission's determination to the U.S. Court of Appeals for the Federal Circuit. After the appeal had been filed, Kenetech sold the '039 patent to Zond Energy Systems, Incorporated ("Zond"). Zond moved to intervene in the appeal. Enercon opposed, arguing that Zond had not shown that it qualifies as a domestic industry and that it thus lacked standing to appear. On April 24, 1997, the Federal Circuit remanded the case to the Commission to determine in the first instance (1) "whether Zond should be substituted for Kenetech;" and (2) "whether Zond qualifies as a domestic industry." The Commission has determined to reinstate the protective order issued in this investigation and to request comments from the parties' counsel on the remand questions in view of the unredacted

quarterly reports submitted to the Commission by Kenetech.

By order of the Commission.

Issued: June 2, 1997.

Donna R. Koehnke,

Secretary.

[FR Doc. 97-14837 Filed 6-5-97; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Collection of the ETA 205, Preliminary Estimates of Average Employer Contribution Rates; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed extension of the collection of the ETA 205, Preliminary Estimates of Average Employer Contribution Rates. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before August 5, 1997. The Department of Labor is particularly interested in comments which:

- evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

- enhance the quality, utility, and clarity of the information to be collected; and

- minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Mike Miller, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, Room C-4512, 200 Constitution Ave., N.W., Washington, DC 20210; telephone number (202) 219-9297; fax (202) 219-8506 (these are not toll-free numbers) or e-mail millermj@doleta.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The ETA 205 reports preliminary information on the taxing efforts in States relative to taxable and total wages and allows comparison among States. The information is used for projecting unemployment insurance tax revenues for the Federal budget process as well as for actuarial analyses of the Unemployment Trust Fund. The data is published in several forms and is often requested by data users. In addition, this report helps to fulfill two statutory requirements. Section 3302(d)(7) of the Federal Unemployment Tax Act (FUTA) requires the Secretary of Labor to notify "the Secretary of the Treasury before June 1 of each year, on the basis of a report furnished by such State to the Secretary of Labor before May 1 of such year" of the differences between the average tax rate in a State and 2.7 percent (i.e., section 3302(c)(2) (B) or (C)). These differences are used to calculate the loss of FUTA offset credit for borrowing States. Also, the tax schedules collected are used to assure that States are in compliance with provisions of the Tax Equity and Fiscal Responsibility Act (Pub.L. 97-248), section 281.

II. Current Actions

Type of Review: Extension.
Agency: Employment and Training Administration.
Title: Preliminary Estimates of Average Employer Contribution Rates.
OMB Number: 1205-0228.
Agency Number: ETC 205.
Affected Public: State Governments.
Cite/Reference/Form/etc: ETA 205.
Total Respondents: 53.
Frequency: Annual.
Total Responses: 53.