

Riverside counties, for the purpose of enhancing its survival.

**Permit No. 842199**

*Applicant:* Kieth Greer, San Diego, California.

The applicant requests a permit to take (harass by survey) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with presence or absence surveys and ecological research throughout the species' range, for the purpose of enhancing its survival.

**Permit No. 800291**

*Applicant:* Ibis Environmental Services, Tiburon, California.

The applicant requests an amendment to her permit to take (harass by survey; locate and monitor nests) the southwestern willow flycatcher (*Empidonax traillii extimus*) in San Diego, San Bernardino, Riverside, Kern, and Orange Counties, California and to take (capture and release) the salt marsh harvest mouse (*Reithrodontomys raviventris*) in Alameda, Contra Costa, Marin, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma Counties, California, in conjunction with surveys and population monitoring, for the purpose of enhancing their survival.

**Permit No. 829250**

*Applicant:* Hawaii Wildlife Fund, Laie, Hawaii.

The applicant requests an amendment to his permit to take (relocate eggs) of the hawksbill sea turtle (*Eretmochelys imbricata*) in conjunction with scientific research on the island of Maui, for the purpose of enhancing their survival.

**Permit No. 839483**

*Applicant:* University of Nevada, Reno, Nevada

The applicant requests a permit to take (capture, release, collect and sacrifice) the Conservancy fairy shrimp (*Branchinecta conservatio*) and the vernal pool tadpole shrimp (*Lepidurus packardii*) in conjunction with the collection of water and soil samples in Yolo, Solano, Sacramento, Yuba, and Merced Counties, California, for the purpose of enhancing their survival.

**Permit No. 842267**

*Applicant:* Steve Foreman, Fairfield, California

The applicant requests a permit to: take (capture, mark, and release) the salt marsh harvest mouse (*Reithrodontomys raviventris*) throughout its range in California; take (capture and release) the California freshwater shrimp (*Syncaris pacifica*) in Marin, Napa, and Sonoma Counties, California; and take (harass by

survey, capture and release, collect and sacrifice voucher specimens) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), vernal pool tadpole shrimp (*Lepidurus packardii*), the San Diego fairy shrimp (*Branchinecta sandiegonensis*), and the Riverside fairy shrimp (*Streptocephalus woottoni*) throughout the species range, in conjunction with surveys and population studies, for the purpose of enhancing their survival. Please note: the applicant is currently authorized to conduct these activities under Permit No. 677215.

**DATES:** Written comments on these permit applications must be received by June 10, 1998.

**ADDRESSES:** Written data or comments should be submitted to the Chief, Division of Consultation and Conservation Planning, Ecological Services, Fish and Wildlife Service, 911 N.E. 11th Avenue, Portland, Oregon 97232-4181; Fax: (503) 231-6243. Please refer to the respective permit number for each application when submitting comments. All comments, including names and addresses, received will become part of the official administrative record and may be made available to the public.

**FOR FURTHER INFORMATION CONTACT:** Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 20 days of the date of publication of this notice to the address above; telephone: (503) 231-2063. Please refer to the respective permit number for each application when requesting copies of documents.

Dated: May 4, 1998.

**Don Weathers,**

*Acting Regional Director, Region 1, Portland, Oregon.*

[FR Doc. 98-12384 Filed 5-8-98; 8:45 am]

BILLING CODE 4310-55-P

**INTERNATIONAL TRADE COMMISSION**

[Inv. No. 337-TA-395]

**Certain EPROM, EEPROM, Flash Memory, and Flash Microcontroller Semiconductor Devices, and Products Containing Same; Notice of Commission Decision to Review Portions of an Initial Determination and Schedule for the Filing of Written Submissions on the Issues Under Review and on Remedy, the Public Interest, and Bonding**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined to review certain portions of the initial determination (ID) issued by the presiding administrative law judge (ALJ) on March 19, 1998, in the above-captioned investigation.

**FOR FURTHER INFORMATION CONTACT:** John A. Wasleff, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-205-3094.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on March 18, 1997, based on a complaint filed by Atmel Corporation. 62 FR 13706. The complaint named five respondents: Sanyo Electric Co., Ltd., Winbond Electronics Corporation and Winbond Electronics North America Corporation (collectively "Winbond"), Macronix International Co., Ltd. and Macronix America, Inc. (collectively "Macronix"). Silicon Storage Technology, Inc. ("SST") was permitted to intervene.

In its complaint, Atmel alleged that respondents violated section 337 by importing into the United States, selling for importation, and/or selling in the United States after importation electronic products and/or components that infringe one or more of claim 1 of U.S. Letters Patent 4,511,811, claim 1 of U.S. Letters Patent 4,673,829, claim 1 of U.S. Letters Patent 4,974,565 ("the '565 patent") and claims 1-9 of U.S. Letters Patent 4,451,903. The '565 patent was subsequently removed from the case. The presiding ALJ held an evidentiary hearing from December 8 to December 19, 1997.

On March 19, 1998, the ALJ issued his final ID finding that there was no violation of section 337. He found that neither claim 1 of U.S. Letters Patent 4,511,811 ("the '811 patent"), nor claim 1 of U.S. Letters Patent 4,673,829 ("the '829 patent"), nor claim 1 or claim 9 of

U.S. Letters Patent 4,451,903 ("the '903 patent") was infringed by any product of the respondents or intervenor. He further found that the '903 patent was unenforceable because of waiver and implied license by legal estoppel, and that claims 2 through 8 of this patent are invalid for indefiniteness. He found that respondents and the intervenor had not demonstrated that any other claim at issue was invalid in view of any prior art before him, or that the '903 patent is void for failure to name a co-inventor. He found that complainant had not demonstrated that the '811 patent was entitled to an earlier date of invention than that appearing on the face of the patent. Finally, the ALJ found that there was a domestic industry with respect to all patents at issue.

On March 31, 1998, complainant Atmel filed a petition for review of the ALJ's final ID. On April 1, 1998, respondent Winbond filed a petition for review of the ALJ's ID. The other respondents and intervenor SST filed contingent petitions for review, raising issues to be considered in the event that the Commission determined to review certain of the ALJ's findings.

Having examined the record in this investigation, including the ID, the petitions for review, and the responses thereto, the Commission has determined not to review the issue of the validity of claims 2-8 of the '903 patent. The Commission has determined to review the remainder of the ID.

On review, the Commission is particularly interested in receiving answers to the following questions:

(1) What effect, if any, does the decision in *Atmel Corp. v. Information Storage Devices, Inc.*, No. C 95-1987 FMS, slip op. (N.D. Cal. April 14, 1998), have on the Commission's consideration of the '811 and '829 patents? In view of *Lannom Mfg. Co., Inc. v. USITC*, 799 F.2d 1572 (Fed. Cir. 1986), can the Commission consider the theory of invalidity relied upon by the court in *Information Storage Devices* with respect to the '811 and/or '829 patents?

(2) Under the ALJ's construction of claim 1 of the '811 and '829 patents:

(a) What evidence of record bears on the issue of whether the insertion of a source follower between the conductive line that receives increments of charge in the accused cpl2 circuit and the relevant long conductive line (word line or source line) is a substantial change?

(b) What evidence of record bears on the issue of whether the substitution of a two stage charge pump for a single stage charge pump is a substantial change?

(3) Discuss whether the following is an appropriate construction of the

disputed terms of claim 1 of the '811 and '829 patents:

(a) *Conductive lines having inherent distributed capacitance* means every conductive line on a semiconductor chip positioned over the insulating layer. In discussing this term, please comment on the significance of the following testimony: Hearing Tr. at 1593 (12/13/98)

(b) *Means \* \* \* for selecting one or more of said conductive lines* means that some circuitry must select one or more conductive lines (as defined in part (a)), one of which receives the increments of charge from the charge pump.

(c) *Transfer means responsive to said selection means and connected to said voltage node for transferring increments of charge* means any circuitry connected at some point to the voltage node receiving the capacitively coupled voltage pulses, and delivering increments of charge to the conductive line to be charged. Further assume that the transfer means must respond to the selection means at some point in the charging operation, and increments of charge refers simply to a periodic increase in the charge, without necessarily returning to zero.

(d) *Said transfer means including switching means \* \* \* for blocking substantially all of the flow of current* means any circuit device that prevents current from flowing from the high voltage supply to unselected lines.

(4) Assuming that the disputed claim terms are interpreted as set forth in question 3, would the accused devices of respondents and intervenor contain circuit means that perform the identical specified functions? Each respondent and intervenor is requested to answer this part of the question with regard to its own accused devices.

(5) If the disputed claim terms are interpreted as set forth in question 3, what evidence of record bears on the question of whether the circuit means for each element of the '811 and '829 patents is the equivalent for purposes of 35 U.S.C. 112¶6 of the putative circuit means employed in the accused devices? If you conclude that the circuit means are not 112¶6 equivalents, what evidence of record bears on the question of whether the distinguishing differences are substantial changes?

(6) What evidence of record bears on the question of whether the Amrany patent is prior art to the '811 and '829 patents? More specifically:

(a) What evidence of record corroborates the inventor's testimony that conception of the invention disclosed in the '811 and '829 patents occurred in May or June 1981?

(b) What evidence of record bears on the issue of when the invention disclosed in the '811 and '829 patents was reduced to practice?

(c) What evidence of record bears on the issue of due diligence from June 1981 until January 15, 1982?

(7) If the disputed claim terms are interpreted as set forth in question 3, are claim 1 of the '811 patent and claim 1 of the '829 patent valid in view of the prior art of record, including the Amrany reference?

(8) If the disputed claim terms are interpreted as set forth in question 3, do the Atmel AT45 and AT49 parts and the SEEQ parts practice the '811 and '829 patents?

(9) In what way would any agreement between SEEQ and JEDEC redound to the benefit of intervenor and respondents? Is there any evidence of record that intervenor or any of the respondents are third party beneficiaries?

(10) Assuming that the interaction of SEEQ with JEDEC resulted in a standing offer to every company in the industry to negotiate a royalty free license to the technology embodied in the '903 patent, is there any evidence of record that intervenor or any of the respondents accepted this offer before the filing of the complaint in this investigation?

(11) What evidence of record might establish an implied license by equitable estoppel with respect to the intervenor or any of the respondents?

(12) Given the facts of this case, can Mr. Jordan be the sole inventor of a patent with claim elements drafted in means plus function form?

(13) Discuss whether the following is an appropriate construction of the disputed terms of claim 1 of the '903 patent:

(a) *Primary circuit* means all circuitry that would be present on a semiconductor chip before the addition of circuitry needed to implement the invention disclosed in the '903 patent.

(b) *Product information array disposed on the semiconductor chip adjacent said primary circuit* means that the memory devices necessary to contain the claimed product information are fabricated on the same integrated circuit chip as the primary circuit, as defined in part (a) above, but not interspersed with the primary circuit.

(c) *Access means for receiving first and second signals and for selecting said primary circuit . . . [and] selecting said product information array* means the circuitry needed to make the logic decision whether the normal output of the primary circuit or the information in the product information array is being

requested by the user. Further assume that zero volts or the absence of any input are included in the universe of inputs that may be first and second signals.

(d) *Output means for providing output signals representative of the information stored* means the circuitry needed to translate internal logic signal(s) representative of the stored information into a signal suitable to drive devices external to the chip, according to the output drive specifications of the chip in question.

(14) If the disputed claim terms are interpreted as assumed in question 13, do the accused devices of respondents and intervenor infringe this claim? Each respondent and intervenor is requested to answer this part of the question with regard to its own accused devices.

(15) If the disputed claim terms are interpreted as set forth in question 13, is claim 1 of the '903 patent valid in view of the prior art of record?

(16) If the disputed claim terms are interpreted as set forth in question 13, do the Atmel AT27, AT29, and AT49 parts practice the '903 patent?

In connection with the final disposition of this investigation, the Commission may issue (1) an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) cease and desist orders that could result in respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry that either are adversely affecting it or are likely to do so. For background information, see the Commission Opinion, *In the Matter of Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360.

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is

therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond, in an amount to be determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed.

#### Written Submissions

The parties to the investigation are requested to file written submissions on the issues under review. The submissions should be concise and thoroughly referenced to the record in this investigation, including references to exhibits and testimony. Additionally, the parties to the investigation, interested government agencies, and any other interested persons are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the March 19, 1998 recommended determination of the ALJ. Complainant and the Commission investigative attorney are also requested to submit proposed remedial orders for the Commission's consideration. The written submissions and proposed remedial orders must be filed no later than the close of business on May 20, 1998. Reply submissions must be filed no later than May 28, 1998. No further submissions will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file with the Office of the Secretary the original and 14 true copies thereof on or before the deadlines stated above. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment is granted by the Commission will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and § 210.42-

.45 of the Commission's Rules of Practice and Procedure (19 CFR 210.42-.45).

Copies of the public version of the ID 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 on 202-205-1810. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>).

Issued: May 6, 1998.

By order of the Commission.

**Donna R. Koehnke,**  
Secretary.

[FR Doc. 98-12587 Filed 5-8-98; 8:45 am]

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#### INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-408]

#### In the Matter of Certain Recombinantly Produced Hepatitis B Vaccines and Products Containing Same; Notice of Investigation

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Institution of investigation pursuant to 19 U.S.C. 1337.

**SUMMARY:** Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 3, 1998, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Chiron Corporation, 4560 Horton Street Emeryville, California 94608. A supplementary letter and an amended complaint were filed on April 20, 1998. A second supplement was filed on April 27, 1998. The complaint, as amended and supplemented, alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain recombinantly produced Hepatitis B vaccines, and products containing same, made by processes that infringe claims 4, 5, 7, and 8 of U.S. Letters Patent Re. 35,749. The complaint further alleges that there exists an industry in the United States as required by subsection (a)(2) of section 337.