

# ITC EXCLUSION ORDER BOND REQUEST

*This form can be provided to the customhouse broker processing the entry for completion.  
All fields must be completed in order for the bond to be processed.*

**Date:** \_\_\_\_\_ **Requestor:** \_\_\_\_\_

**Phone:** \_\_\_\_\_ **Email:** \_\_\_\_\_

**Principal:** \_\_\_\_\_ **Importer No:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Complainant:** Rambus Inc.

**ITC Case/Investigation No:** 337-TA-661

**Bond Amount:** \_\_\_\_\_

*(The bond amount should be calculated at 2.65% of the total entry value for products associated with HTSUS Numbers 8471.30.01, 8471.41.01, 8471.50.01, 8471.60.70, 8471.80.1000, 8471.80.4000, 8473.30.1180, and 8542.31.0000.)*

**Description of Merchandise:** \_\_\_\_\_

**Manufacturer :** \_\_\_\_\_

**Entry No:** \_\_\_\_\_ **Entry Date:** \_\_\_\_\_

**Attorney-in-Fact:** Andrew R. Kopsidas, Fish & Richardson P.C.

*(Provide the full name of the power of attorney signing the bond. I.e., John Doe – ABC Customs Brokers, Inc.)*

## INSTRUCTIONS:

1. Complete the information above.
2. Submit the completed form to:

Andrea Beto  
Roanoke Trade Services, Inc.  
Direct Phone: 847-969-8249  
Direct Fax: 847-969-3249  
Email: [andrea.beto@roanoketrade.com](mailto:andrea.beto@roanoketrade.com)

Jennifer Rome  
Roanoke Trade Services, Inc.  
Direct Phone: 847-969-7042  
Fax: 847-969-8200  
Email: [jennifer.rome@roanoketrade.com](mailto:jennifer.rome@roanoketrade.com)

Andrew Kopsidas  
Fish & Richardson P.C.  
Direct Phone: 202-626-6407  
Facsimile: 202-783-2331  
Mobile: 240-449-9873  
Email: [kopsidas@fr.com](mailto:kopsidas@fr.com)

Peter Sawert  
Fish & Richardson P.C.  
Direct Phone: 202-626-7769  
Facsimile: 202-783-2331  
Email: [sawert@fr.com](mailto:sawert@fr.com)

3. Roanoke will issue bond and email it to customhouse broker. (Response Time: No later than 20 minutes after receipt of completed request form, during standard business hours (9:00am – 5:30pm CST).)

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

**In the Matter of**

**CERTAIN SEMICONDUCTOR CHIPS  
HAVING SYNCHRONOUS DYNAMIC  
RANDOM ACCESS MEMORY  
CONTROLLERS AND PRODUCTS  
CONTAINING SAME**

**Investigation No. 337-TA-661**

**NOTICE OF COMMISSION FINAL DETERMINATION OF VIOLATION OF  
SECTION 337; TERMINATION OF INVESTIGATION; ISSUANCE OF LIMITED  
EXCLUSION ORDER AND CEASE AND DESIST ORDERS**

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

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined that there is a violation of 19 U.S.C. § 1337 in the above-captioned investigation by the respondents in the investigation. To remedy the violation it has found, the Commission has determined to issue a limited exclusion order and to issue cease and desist orders to certain respondents. The investigation is terminated.

**FOR FURTHER INFORMATION CONTACT:** Paul M. Bartkowski, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-5432. 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, S.W., Washington, D.C. 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 Inv. No. 337-TA-661 on December 10, 2008, based on a complaint filed by Rambus, Inc. of Los Altos, California ("Rambus"). 73 Fed. Reg. 75131-2. The complaint, as amended and supplemented, alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 ("section

337”), in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain semiconductor chips having synchronous dynamic random access memory controllers and product containing the same by reason of infringement of certain claims of U.S. Patent Nos. 6,470,405 (“the ‘405 patent”); 6,591,353 (“the ‘353 patent”); 7,287,109 (“the ‘109 patent”); 7,117,998 (“the ‘998 patent”); 7,210,016 (“the ‘016 patent”); 7,287,119 (“the ‘119 patent”); 7,330,952 (“the ‘952 patent”); 7,330,953 (“the ‘953 patent”); and 7,360,050 (“the ‘050 patent”). The Commission’s notice of investigation named the following respondents: NVIDIA Corporation of Santa Clara, California; Asustek Computer, Inc. of Taipei, Taiwan; ASUS Computer International, Inc. of Fremont, California; BFG Technologies, Inc. of Lake Forest, Illinois; Biostar Microtech (USA) Corp. of City of Industry, California; Biostar Microtech International Corp. of Hsin Ten, Taiwan; Diablotek Inc. of Alhambra, California; EVGA Corp. of Brea, California; G.B.T. Inc. of City of Industry, California; Giga-byte Technology Co., Ltd. of Taipei, Taiwan; Hewlett-Packard Co. of Palo Alto, California; MSI Computer Corp. of City of Industry, California; Micro-star International Co., Ltd. of Taipei, Taiwan; Palit Multimedia Inc. of San Jose, California; Palit Microsystems Ltd. of Taipei, Taiwan; Pine Technology Holdings, Ltd. of Hong Kong; and Sparkle Computer Co. of Taipei, Taiwan (referred to collectively as “Respondents”).

On July 13, 2009, the Commission issued a notice terminating the ‘119, ‘952, ‘953, and ‘050 patents and certain claims of the ‘109 patent from the investigation.

On January 22, 2010, the ALJ issued his Initial Determination on Violation of Section 337 and Recommended Determination on Remedy and Bond (“ID”). The ALJ found that Respondents violated section 337 by importing certain semiconductor chips having synchronous dynamic random access memory controllers and products containing same with respect to various claims of the ‘405, ‘353, and ‘109 patents (“the Barth I patents”). The ALJ determined that there was no violation of section 337 with respect to the asserted claims of the ‘016 and ‘998 patents (“the Ware patents”).

On March 25, 2010, the Commission determined to review (1) the ID’s anticipation and obviousness findings with respect to the Ware patents; (2) the ID’s obviousness-type double patenting analysis regarding the asserted Barth I patents; and (3) the ID’s analysis of the alleged obviousness of the asserted Barth I patents. The Commission invited briefing on the issues under review and on the issues of remedy, the public interest, and bonding. On May 26, 2010, the Commission requested further briefing on the impact of a license between Rambus and Samsung Electronics Co. on the ALJ’s findings and conclusions. On June 22, 2010, the Commission requested further briefing regarding patent exhaustion in light of *Fujifilm Corp. v. Benun*, which was issued by the United States Court of Appeals for the Federal Circuit on May 27, 2010.

Having examined the record of this investigation and the submissions filed, the Commission has determined to affirm the ALJ’s ID, with certain modifications that are set forth in the Commission’s opinion. Accordingly, the Commission has determined that a violation of section 337 has occurred in the importation into the United States, the sale for importation, or the sale

within the United States after importation of certain synchronous dynamic random access memory controllers and products containing the same by Respondents with respect to the Barth I patents. To remedy this violation, the Commission has determined to issue a limited exclusion order and cease-and-desist orders against respondents NVIDIA Corp.; Hewlett-Packard Co.; ASUS Computer International, Inc.; Palit Multimedia Inc.; Palit Microsystems Ltd.; MSI Computer Corp.; Micro-Star International; EVGA Corp.; DiabloTek, Inc.; Biostar Microtech Corp.; and BFG Technologies, Inc. The Commission has determined that this relief is not precluded by consideration of the factors set forth in 19 U.S.C. § 1337(d), (f). The Commission has determined that the amount of the bond to permit importation during the Presidential review period under 19 U.S.C § 1337(j) is 2.65 percent of the entered value of the subject imports. The investigation is terminated.

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 Part 210 of the Commission's Rules of Practice and Procedure (19 C.F.R. Part 210).

By order of the Commission.

Marilyn R. Abbott  
Secretary to the Commission

Issued: July 26, 2010

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

**In the Matter of**

**CERTAIN SEMICONDUCTOR CHIPS  
HAVING SYNCHRONOUS DYNAMIC  
RANDOM ACCESS MEMORY  
CONTROLLERS AND PRODUCTS  
CONTAINING SAME**

**Inv. No. 337-TA-661**

**LIMITED EXCLUSION ORDER**

The Commission has determined that there is a violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, in the unlawful importation and sale by Respondents NVIDIA Corporation; Asustek Computer, Inc.; ASUS Computer International, Inc.; BFG Technologies, Inc.; Biostar Microtech (U.S.A.) Corp.; Diablotek Inc.; EVGA Corp.; G.B.T. Inc.; Giga-byte Technology Co., Ltd.; Hewlett-Packard Co.; MSI Computer Corp.; Micro-Star International Co., Ltd.; Palit Multimedia Inc.; Palit Microsystems Ltd.; Pine Technology (Macao Commercial Offshore) Ltd.; and Sparkle Computer Co., Ltd. (collectively, the "Respondents") by reason of infringement of: (1) claims 11-13, 15, and 18 of U.S. Patent No. 6,470,405 (the "405 patent"); (2) claims 11-13 of U.S. Patent No. 6,591,353 (the "353 patent"); and (3) claims 1, 2, 4, 5, 12, 13, 20, 21, and 24 of U.S. Patent No. 7,287,109 (the "109 patent"). Having reviewed the record of this investigation, including the written submissions of the parties, the Commission has made its determination on the issues of remedy, the public interest, and bonding. The Commission has determined that the appropriate form of relief is a limited exclusion order prohibiting the unlicensed entry of infringing memory controller products and products incorporating a memory controller, manufactured for or on behalf of Respondents or any of their affiliated companies, parents, subsidiaries, licensees, or other related business entities, or their successors or assigns.

The Commission has determined that the public interest factors enumerated in 19 U.S.C. § 1337 do not preclude issuance of the limited exclusion order. Finally, the Commission has determined that the bond during the Presidential review period shall be in the amount of 2.65% of entered value of imported products that are subject to this order.

Accordingly, the Commission hereby **ORDERS THAT:**

1. Memory controller products and products incorporating a memory controller that are covered by one or more of claims 11-13, 15, and 18 of U.S. Patent No. 6,470,405 and that are manufactured abroad or imported by or on behalf of Respondents, or any of their affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns are excluded from entry for consumption into the United States, entry for consumption from a foreign trade zone, or withdrawal from a warehouse for consumption, for the remaining term of the patent, except under license of the patent owner or as provided by law.

2. Memory controller products and products incorporating a memory controller that are covered by one or more of claims 11-13 of U.S. Patent No. 6,591,353 and that are manufactured abroad or imported by or on behalf of Respondents, or any of their affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns are excluded from entry for consumption into the United States, entry for consumption from a foreign trade zone, or withdrawal from a warehouse for consumption, for the remaining term of the patent, except under license of the patent owner or as provided by law.

3. Memory controller products and products incorporating a memory controller that are covered by one or more of claims 1, 2, 4, 5, 12, 13, 20, 21, and 24 of U.S. Patent No. 7,287,109 and that are manufactured abroad or imported by or on behalf of Respondents, or any of their affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns are excluded from entry for consumption into the United States, entry for consumption from a foreign trade zone, or withdrawal from a warehouse for consumption, for the remaining term of the patent, except under license of the patent owner or as provided by law.

4. Products that are excluded by paragraphs 1, 2, or 3 of this Order are entitled to entry for consumption into the United States, entry for consumption from a foreign trade zone, or withdrawal from a warehouse for consumption, under bond in the amount of 2.65% of entered value of imported product pursuant to subsection (j) of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337(j), from the day after this Order is received by the United States Trade Representative as delegated by the President, until such time as the United States Trade Representative notifies the Commission that this action is approved or disapproved but, in any event, not later than sixty (60) days after the date of receipt of this action.

5. At the discretion of U.S. Customs and Border Protection ("CBP") and pursuant to procedures it establishes, persons seeking to import products that are potentially subject to this Order may be required to certify that they are familiar with the terms of this Order, that they have made appropriate inquiry, and thereupon state that, to the best of their knowledge and belief, the products being imported are not excluded from entry under paragraphs 1, 2, or 3 of this Order. At its discretion, CBP may require persons who have provided the certification described in this paragraph to furnish such records or analyses as are necessary to substantiate the certification.

6. In accordance with 19 U.S.C. § 1337(l), the provisions of this Order shall not apply to products that are imported by and for the use of the United States, or imported for, and to be used for, the United States with the authorization or consent of the Government.

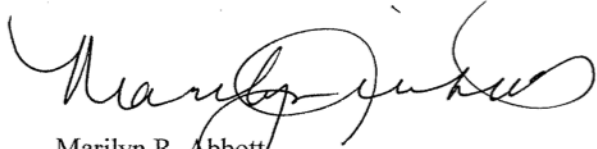
7. The Commission may modify this Order in accordance with the procedures described in Rule 210.76 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.76.

8. The Commission Secretary shall serve copies of this Order upon each party of record in this investigation and upon the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and Customs and Border Protection.

9. Notice of this Order shall be published in the *Federal Register*.

By Order of the Commission.

Issued: July 26, 2010

A handwritten signature in black ink, appearing to read "Marilyn R. Abbott". The signature is fluid and cursive, with a large initial "M" and a long, sweeping underline.

Marilyn R. Abbott  
Secretary to the Commission