our current operations and possibly emerging over the next several years, the operational experiences needed to determine if changes to the Operating Criteria are necessary will be acquired. Under the present Operating Criteria, all needs have been met.

The evaluation of operational experiences over the next several years will determine whether or not to change the Operating Criteria. But for the purposes of this review, it appears that no change is needed to the Operating Criteria.

Issue #6

Water marketing and banking.

Background: Several years ago the Bureau of Reclamation advanced draft regulations for administering Colorado River water entitlements in the Lower Basin States of Arizona, California, and Nevada. The draft regulations contained provisions for water banking and water marketing in the Lower Basin. Because there was not consensus with the states regarding the draft regulations, they have been held in abeyance while the three states attempt to reach some agreement on numerous issues, including water marketing and banking. This negotiation process among the states is continuing. Many people believe that some form of water banking and marketing will be essential to meeting future water needs in the Lower Colorado River Basin.

Analysis and Response: Reclamation has initiated a rule-making process focused on water banking in groundwater aquifers or off-mainstream storage reservoirs in the Lower Basin. This administrative rule is considered a responsibility of the Secretary of the Interior under the Boulder Canyon Project Act, and focuses only on the three Lower Basin States. Reclamation continues to work with the States and to encourage them to cooperatively develop a proposal for water marketing and banking in the Lower Basin.

Reclamation believes it is not appropriate that water marketing and banking would change the current Operating Criteria as this issue focuses on the Lower Basin.

Proposed Decision

The Department has considered issues arising from the review of the Operating Criteria. After a careful review of the issues, solicitation of involved party's responses to Reclamation's analysis, and consultation with the Governor's representatives of the seven Basin States, the Department proposes no modifications to the Operating Criteria at this time.

Dated: August 19, 1997.

Eluid L. Martinez,

Commissioner, Bureau of Reclamation.

[FR Doc. 97–22747 Filed 8–26–97; 8:45 am]

BILLING CODE 4310–94–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–401]

Certain CD–ROM Controllers and Products Containing Same; Notice of Investigation

AGENCY: 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 July 21, 1997, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Oak Technology, Inc., 139 Kifer Court, Sunnyvale, CA 94086. On August 1, 1997, Oak filed a notice of withdrawal as to certain proposed respondents. On August 7, 1997, Oak filed a letter and a supplement to the complaint. The complaint, as 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 CD–ROM controllers and products containing same by reason of infringement of claim 8 of U.S. Letters Patent 5,535,327 and claims 1–5 and 8–10 of U.S. Letters Patent 5,581,715. The complaint further alleges that there exists an industry in the United States as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a permanent exclusion order and a permanent cease and desist order.

ADDRESSES: The complaint, except for any confidential information contained therein, is 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., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

FOR FURTHER INFORMATION CONTACT: Thomas L. Jarvis, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2568.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in § 210.10 of the Commission's rules of practice and procedure, 19 CFR 210.10 (1997).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on August 19, 1997, *ordered* That—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain CD–ROM controllers and products containing same by reason of infringement of claim 8 of U.S. Letters Patent 5,535,327 or claims 1–5 or 8–10 of U.S. Letters Patent 5,581,715, and whether there exists an industry in the United States as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

Oak Technology, Inc., 139 Kifer Court, Sunnyvale, CA 94086

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Winbond Electronics Corporation, No. 4 Creation Rd. 3, Science-Based Industrial Park, Hsinchu, Taiwan

Winbond Electronics North America Corporation, 2730 Orchard Parkway, San Jose, CA 95134

Wearnes Technology (Private) Ltd., 801, Lor 7 Toa Payoh #07–00, Singapore SG–319319

Wearnes Electronics Malaysia Sendirian Berhad, No. 99, Jalan Parit Mesjid, 82000 Pontian, Johor, Malaysia

(c) Thomas L. Jarvis, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW, Room 401–J, Washington, DC 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, the Honorable Sidney Harris is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with § 210.13 of the Commission's rules of practice and procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such

responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against such respondent.

Issued: August 20, 1997.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 97–22787 Filed 8–26–97; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–334 (Remand)]

Notice of Issuance of Limited Exclusion Order and Termination of Investigation; Denial of Petition for Reconsideration

In the matter of Certain condensers, parts thereof and products containing same, including air conditioners for automobiles.

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has issued a limited exclusion order in the above-captioned investigation and terminated the investigation. The Commission has also determined to deny respondents' petition for reconsideration of the Commission's January 16, 1997, determination that a violation of section 337 of the Tariff Act of 1930 has occurred. (62 FR 3525–6) (January 23, 1997).

FOR FURTHER INFORMATION CONTACT: Jean Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202–205–3104.

SUPPLEMENTARY INFORMATION: On December 12, 1991, Modine Manufacturing Co. filed a complaint with the Commission alleging a violation of section 337 by respondents Showa Aluminum Corporation (Japan), Showa Aluminum Corporation of America, Mitsubishi Motors Corporation, Mitsubishi Motors Sales of America, Mitsubishi Heavy Industries, Ltd., and Mitsubishi Heavy Industries America, Inc. (collectively referred to herein as respondents). Modine alleged that respondents had infringed claims of Modine's patent, U.S. Letters Patent 4,998,580 (the '580 patent). The Commission concluded the investigation with a finding of no infringement, and hence a determination of no violation of section 337.

Modine appealed the Commission's determination to the U.S. Court of Appeals for the Federal Circuit (Federal Circuit). On February 5, 1996, the Federal Circuit reversed the Commission's claim interpretation and remanded the investigation to the Commission for redetermination of the issues of literal infringement and infringement under the doctrine of equivalents. *Modine Manufacturing Co.* v. *U.S.I.T.C.*, 75 F.3d 1545, 1549 (Fed. Cir. 1996). The court affirmed the Commission's determination in all other respects. Id.

On May 31, 1996, the Commission issued an order remanding the Condensers investigation to the Office of Administrative Law Judges. The Commission's order also directed the ALJ to issue a recommended determination (RD) on the issues of remedy and bonding two weeks after the issuance of the ID. On December 2, 1996, Judge Luckern issued an ID finding a violation of section 337 by respondents. On December 12, 1996, respondents and the Commission investigative attorney (IA) filed separate petitions for review. Complainant Modine filed a petition for review contingent on the Commission's decision either to grant another party's petition for review or to review the ID on its own motion. All parties filed responses to each petition on December 19, 1996. The ALJ issued his RD on remedy and bonding on December 16, 1996.

On January 16, 1997, the Commission determined to review only the reasoning supporting the ALJ's determination that the range of equivalents was limited by the 0.4822 inch hydraulic diameter given for the prior art Cat condenser. 62 FR 3525–6 (Jan. 23, 1997). Since the Commission did not review the ID's determination of the range of equivalents, the ALJ's determination that there had been a violation with respect to two models of the accused condensers, the Mazda 929 and the Audi 90, became the Commission's determination by operation of law. 19 C.F.R. 210.42(h). The Commission's notice of review requested written submissions on the issue under review, and on remedy, the public interest, and bonding. Submissions were received from Modine, the Showa respondents, the Mitsubishi respondents, and the IA on January 30, 1997. Complainant, the Showa respondents, and the IA filed reply submissions on February 6, 1997.

On March 10, 1997, respondents filed a petition for reconsideration of the Commission's determination not to review the ALJ's determination that section 337 had been violated. Respondents' petition was based on the recent Supreme Court decision in *Warner-Jenkinson, Inc.* v. *Hilton-Davis Chemical Company,* 117 S.Ct. 1040 (U.S. Mar. 3, 1997), involving the doctrine of equivalents. Respondents argued that the case is controlling authority which is contrary to the law applied by the Federal Circuit in the Modine decision. Complainant Modine and the IA filed oppositions to the petition on March 17, 1997. The Commission has determined to deny respondents' petition.

After having reviewed the record in this investigation, including the written submissions of the parties, the Commission made its determinations on the issues of remedy, the public interest, and bonding. The Commission determined that the appropriate form of relief is a limited exclusion order prohibiting the unlicensed importation for consumption of infringing condensers, parts thereof, and products containing same manufactured and/or imported by or on behalf of the Showa respondents. The order applies to any of the affiliated companies, parents, subsidiaries, licensees, contractors, or other related business entities, or their successors or assigns of Showa.

The Commission also determined that the public interest factors enumerated in 19 U.S.C. 1337(d) do not preclude the issuance of the limited exclusion order, and that the bond during the Presidential review period shall be in the amount of five percent of the entered value of the condensers in question. Condenser parts and products containing condensers are entitled to entry into the United States without bond during the Presidential review period.