SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (“ID”) granting the motion. None of the parties petitioned for review of the ID. The Commission has determined not to review the ID.

The Commission notes that in Order No. 57 the ALJ denied a request by the parties to terminate the investigation prior to the evidentiary hearing based upon Openwave’s stipulation that, under the ALJ’s claim construction, the accused products do not infringe the asserted claims. The Commission clarifies that it encourages early disposition of investigations on dispositive issues, when possible, before the evidentiary hearing in the interest of mitigating litigation costs and conserving resources of the parties and the Commission. See, e.g., Certain Drill Bits and Products Containing the Same, Inv. No. 337–TA–844, 77 FR 51825–26 (Aug. 27, 2012) (affirming grant of summary determination of no importation on the merits and terminating investigation).


Issued: November 13, 2012.

By order of the Commission.

Lisa R. Barton,
Acting Secretary to the Commission.

[FR Doc. 2012–27989 Filed 11–16–12; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–698 (Enforcement Proceeding)]

Certain DC–DC Controllers and Products Containing Same; Decision To Affirm-in-Part, Reverse-in-Part, Modify-in-Part, and Vacate-in-Part an Enforcement Initial Determination Finding a Violation of the August 13, 2010 Consent Order; Issuance of Modified Consent Order and Civil Penalty; and Termination of Enforcement Proceeding


ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to affirm-in-part, reverse-in-part, modify-in-part, and vacate-in-part an enforcement initial determination (“ID”) of the presiding administrative law judge (“ALJ”) finding a violation of the
August 13, 2010 consent order ("Consent Order") by respondent uPI Semiconductor Corp. ("uPI") of Hsinchu, Taiwan, and has issued a modified consent order and civil penalty order in the amount of $620,000 directed against uPI.

**FOR FURTHER INFORMATION CONTACT:**
Clint A. 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 all 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 SW., Washington, DC 20436, telephone 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (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 the matter can be obtained by contacting the Commission’s TDD terminal on 202–205–1810.

**SUPPLEMENTARY INFORMATION:**
The Commission instituted this enforcement proceeding on September 6, 2011, based on an enforcement complaint filed by Richtek Technology Corp. of Hsinchu, Taiwan and Richtek USA, Inc. of San Jose, California (collectively “Richtek”). 76 FR 55109–10. The complaint alleged violations of the August 13, 2010 consent orders issued in the underlying investigation by the continued practice of prohibited activities such as importing, offering for sale, and selling for importation into the United States DC–DC controllers or products containing the same that infringe one or more of U.S. Patent Nos. 7,315,190 (“the ’190 patent”); 6,414,470 (“the ’470 patent”); and 7,132,717 (“the ’717 patent”); or that contain or use Richtek’s asserted trade secrets. The Commission’s notice of institution of enforcement proceedings named uPI and Sapphire Technology Limited (“Sapphire”) of Shatin, Hong Kong as respondents.

On April 11, 2012, the Commission issued notice of its determination not to review the ALJ’s ID terminating the investigation as to Sapphire based on a settlement agreement.

On June 8, 2012, the ALJ issued his EID finding a violation of the Consent Order, and determination that the number of violation days is 62 days. The Commission has also affirmed the ALJ’s finding of direct infringement of claims 1–11 and 26–27 of the ’190 patent with respect to uPI’s formerly accused products. In addition, the Commission has affirmed the ALJ’s finding that uPI does not induce infringement of claims 1–11 and 26–27 of the ’190 patent.

The Commission has been reviewing the record in this investigation, including the EID and the parties’ written submissions, and has determined that Richtek waived any allegations of indirect infringement with respect to the ’470 patent. This action results in a finding of no violation of the Consent Order with respect to the ’470 patent.

Further, the Commission has vacated as moot the portion of the EID relating to the ’717 patent because the asserted claims 1–3 and 6–9 have been cancelled following issuance of Ex Parte Reexamination Certificate No. U.S. 7,132,717 C1 on October 3, 2012.

Further, the Commission has made its determination on the issues of remedy, the public interest, and bonding. The Commission has determined to impose a civil penalty of $620,000 on respondent uPI for violation of the Consent Order on 62 days. The Commission has also determined to modify the Consent Order to clarify that the consent order applies (and has always applied) to all uPI affiliates, past, present, or future; and (2) imposing a civil penalty of $750,000 against uPI. On June 25, 2012, uPI and Richtek each filed a petition for review of the EID; on July 3, 2012, Richtek, uPI, and the Commission investigative attorney (“IA”) each filed a response to the opposing party’s petition.

On August 9, 2012, the Commission issued notice of its determination to review the following: (1) The ALJ’s finding of infringement of the ’470 patent; (2) the ALJ’s finding of infringement of the ’190 patent; and (3) the ALJ’s determination that uPI violated the Consent Order on 75 days. 77 FR 49022–23 (Aug. 15, 2012). The determinations made in the EID that were not reviewed became final determinations of the Commission by operation of rule. See 19 CFR 210.75(b)(3). The Commission also requested the parties to respond to certain questions concerning the issues under review and requested written submissions on the issues of remedy, the public interest, and bonding from the parties and interested non-parties.

On August 23 and 30, 2012, respectively, complainant Richtek, respondent uPI, and the IA each filed a brief and a reply brief on the issues for which the Commission requested written submissions.

Having reviewed the record in this investigation, including the EID and the parties’ written submissions, the Commission has determined to affirm-in-part, reverse-in-part, modify-in-part, and vacate-in-part the EID’s findings under review. Specifically, the Commission has affirmed the ALJ’s finding that uPI violated the consent order, and determined that the number of violation days is 62 days. The Commission has also affirmed the ALJ’s finding of direct infringement of claims 1–11 and 26–27 of the ’190 patent with respect to uPI’s formerly accused products. In addition, the Commission has vacated the ALJ’s finding that uPI does not induce infringement of claims 1–11 and 26–27 of the ’190 patent. The Commission has also determined to reverse the ALJ’s finding that claims 29 and 34 of the ’470 patent are directly infringed by respondent uPI’s accused DC–DC controllers and products containing the same, and has determined that Richtek waived any allegations of indirect infringement with respect to the ’470 patent.

The Consent Decree resolves the United States’ complaint for civil penalties and injunctive relief against Richtek America, Inc., associated with its corn-milling facility in Keokuk, Iowa, pursuant to sections 309(b) and (d) of the Clean Water Act for violations of

**DEPARTMENT OF JUSTICE**

**Notice of Lodging of Proposed Consent Decree Under the Clean Water Act**

On November 13, 2012, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Southern District of Iowa, Davenport, in the lawsuit entitled United States v. Roquette America, Inc., Civil Action No. 3:12–cv–00131–JEG–RAW.

The Consent Decree resolves the United States’ complaint for civil penalties and injunctive relief against Roquette America, Inc., associated with its corn-milling facility in Keokuk, Iowa.