UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of **CERTAIN STATIC RANDOM ACCESS MEMORIES AND PRODUCTS CONTAINING THE SAME**	**Inv. No. 337-TA-792**

ORDER 29: CONSTRUING THE TERMS OF THE ASSERTED CLAIMS OF THE PATENTS AT ISSUE

(February 9, 2012)

TABLE OF CONTENTS

I. INTRODUCTION

This Investigation was instituted by the Commission on July 28, 2011 to determine whether certain static random access memories and products containing same infringe U.S. Patent Nos. 6,534,805 (the "'805 patent"); 6,651,134 (the "'134 patent"); 7,142,477 (the "'477 patent"); and 6,262,937 (the "'937 patent").[1] *See* Fed. Reg. 45,295-96 (July 28, 2011). The named respondents are GSI Technology, Inc.; Telefonaktiebolaget LM Ericsson; Ericsson Inc.; Motorola Mobility, Inc.; Motorola Solutions, Inc.; Tellabs, Inc.; Cisco Systems, Inc.; Avnet, Inc.; and Hewlett-Packard Company/Tipping Point (collectively, "Respondents").

Pursuant to Ground Rule 5A, a *Markman* hearing was held on October 14, 2011 regarding the interpretation of certain terms of the asserted claims of the patents at issue, namely:

- Claims 1, 2, and 4–6 of the '805 patent;
- Claims 1, 2 and 12–15 of the '134 patent;
- Claims 8 and 9 of the '477 patent; and
- Claims 1, 2, 6, 12, and 13 of the '937 patent.

Prior to the hearing, Complainant Cypress Semiconductor Corp. ("Cypress") and Respondents met and conferred in an effort to reduce the number of disputed claim terms to a minimum. The parties also filed initial and reply claim construction briefs, wherein each party offered its construction for the claim terms in dispute, along with support for its proposed interpretation. After the hearing and pursuant to Order No. 7, the parties submitted an updated Joint Claim Construction Chart.[2]

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[1] Complainant Cypress Semiconductor Corp. is presently the owner, by assignment, of the patents-in-suit. (2d Am. Compl. at ¶ 1.3; Ex. 4 to 2d Am. Compl.)

[2] The claim terms discussed in detail in this Order were identified in the Updated Joint Proposed Claim Construction Chart as being agreed upon or remaining in dispute. For convenience, the briefs and chart submitted by the parties for the *Markman* hearing are referred to hereafter as follows:

II. IN GENERAL

The claim terms construed in this Order are done so for the purposes of this Section 337 Investigation. Those terms not in dispute need not be construed. *See Vanderlande Indus. Nederland BV v. Int'l Trade Comm'n*, 366 F.3d 1311, 1323 (Fed. Cir. 2004) (noting that the administrative law judge need only construe disputed claim terms).

Hereafter, discovery and briefing in this Investigation shall be governed by this construction of the claim terms. **All** other claim terms shall be deemed undisputed and shall be interpreted by the undersigned in accordance with "their ordinary meaning as viewed by one of ordinary skill in the art." *Apex Inc. v. Raritan Computer, Inc.*, 325 F.3d 1364, 1371 (Fed. Cir. 2003), *cert. denied*, 540 U.S. 1073 (2003).

III. RELEVANT LAW

"An infringement analysis entails two steps. The first step is determining the meaning and scope of the patent claims asserted to be infringed. The second step is comparing the properly construed claims to the device accused of infringing." *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 976 (Fed. Cir. 1995) (*en banc*) (internal citations omitted), *aff'd*, 517 U.S. 370 (1996). Claim construction is a "matter of law exclusively for the court." *Id.* at 970-71. "The construction of claims is simply a way of elaborating the normally terse claim language in order to understand and explain, but not to change, the scope of the claims." *Embrex, Inc. v. Serv. Eng'g Corp.*, 216 F.3d 1343, 1347 (Fed. Cir. 2000).

CMIB	Cypress's *Markman* Initial Brief
CMRB	Cypress's *Markman* Reply Brief
RMIB	Respondents' *Markman* Initial Brief
RMRB	Respondents' *Markman* Reply Brief
JC	Updated Joint Proposed Claim Construction Chart

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