

(2) Partially redacted BPI was largely illegible; and

(3) The information allegedly mishandled by the alleged breacher consisted entirely of information pertaining to the alleged breacher's own client.

## II. Section 337 Administrative Protective Orders

APOs are issued in section 337 investigations pursuant to the statute and the Commission's rules. 19 U.S.C. § 1337(n); 19 CFR 210.37. APO practice in section 337 investigations differs in important respects from APO practice in title VII investigations. Notably, in the section 337 context, it is the presiding Administrative Law Judge rather than the Secretary who issues the APO. The terms of the APO may differ from case to case. Further, the one day rule does not apply.

In a section 337 investigation that is no longer before the administrative law judge but is before the Commission, the investigation of an alleged APO breach generally proceeds in the following manner. The Secretary issues a letter of inquiry to ascertain the alleged breacher's views on whether a breach has occurred. If, based on the response made to such a letter of inquiry, the Commission determines that a breach has occurred, the Commission issues a second letter asking the breacher to address the questions of mitigating circumstances and possible sanctions or other actions. The Commission then determines what action to take in response to the breach. The Commission retains sole authority to make final determinations regarding the existence of a breach and the appropriate action to be taken if a breach has occurred.

In section 337 investigations that are before the presiding Administrative Law Judge, it is the judge who presides over the inquiry into any alleged APO breaches.

Breaches have involved the unauthorized dissemination of CBI; the use of CBI for purposes other than the section 337 investigation; and the failure to return or destroy CBI in a timely manner. The following is a summary of the one case in which a breach of the APO in a section 337 investigation was found in 1994:

Case 9: An attorney failed to destroy CBI in a timely manner after the termination of the investigation and after the determination was no longer appealable. The Commission determined that the attorney had breached the APO after written and oral requests by the supplier for return of the information were denied. Mitigating circumstances included the facts that

this was the first APO breach by the attorney, and that while the attorney failed to return or destroy the CBI, no CBI was disclosed. The attorney received a private letter of reprimand.

Issued: May 2, 1995.

By order of the Commission.

**Donna R. Koehnke,**  
Secretary.

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### [Investigation 332-362]

#### U.S.-Africa Trade Flows and Effects of the Uruguay Round Agreements and U.S. Trade and Development Policy

**AGENCY:** United States International Trade Commission.

**ACTION:** Institution of investigation and request for written submissions.

**EFFECTIVE DATE:** April 27, 1995.

**SUMMARY:** Following receipt on March 31, 1995, of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-362, U.S.-Africa Trade Flows and Effects of the Uruguay Round Agreements and U.S. Trade and Development Policy. The USTR letter also requested that the Commission prepare its first annual report under this investigation not later than November 15, 1995, and provide an update of the report annually thereafter for a period of 4 years.

**FURTHER INFORMATION CONTACT:** Cathy Jabara, Office of Industries (202-205-3309) or Jean Harman, Office of Industries (292-205-3313), or William Gearhart, Office of the General Counsel (202-205-3091) for information on legal aspects. The media should contact Margaret O'Laughlin, Office of Public Affairs (202-205-1819). Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on (202-205-1810).

**Background:** The USTR, in his letter dated March 30, 1995, requested that the Commission, pursuant to section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), conduct an investigation to provide the President a report containing the following:

1. A profile of the structure of U.S.-Africa trade flows over the 1990-94 period in the following major sectors: agriculture, forest products, textiles and apparel, energy, chemicals, minerals and metals, machinery and equipment, electronics technology, miscellaneous manufactures and services;

2. A summary of U.S. Government trade and development programs (e.g.,

investments, trade finance, trade facilitation, trade promotion, foreign development assistance, etc.) in Africa, including dollar amounts on an annual basis, during the 1990-94 period;

3. A summary of the literature and private sector views relevant to assessing the impact of the Uruguay Round Agreements on developing countries and Africa in particular; and

4. An assessment of any effects of the Uruguay Round Agreements, and of U.S. trade and development policy for Africa, on U.S.-Africa trade flows.

As requested by the USTR, the Commission will limit its study to the following countries in Sub-Saharan Africa: Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Comoros, Congo, Côte d'Ivoire, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, Somalia, South Africa, Sudan, Swaziland, Togo, Tanzania, Uganda, Zaire, Zambia, and Zimbabwe.

The USTR letter notes that section 134 of the Uruguay Round Agreements Act (URAA), P.L. 103-465, directs the President to develop a comprehensive trade and development policy for the countries of Africa. The President is also to report to the Congress annually over the next 5 years on the steps taken to carry out that mandate. The Statement of Administrative Action that was approved by the Congress with the URAA states that the President will direct the International Trade Commission to submit within 12 months following enactment of the URAA into law, and annually for the 4 years thereafter, a report providing (1) an analysis of U.S.-Africa trade flows, and (2) an assessment of any effects of the Uruguay Round Agreements, and of U.S. trade and development policy for Africa, on such trade flows.

The USTR letter states that as part of its trade and development policy for Africa, the Administration will be examining all measures that will foster economic development in Africa through increased trade and sustained economic reforms. The USTR asks the Commission in its report to provide, to the extent practicable, any readily available information on the role of regional integration in Africa's trade and development and on Africa's progress in implementing economic reforms.

**Public Hearing:** A public hearing in connection with the investigation will be held at the U.S. International Trade

Commission Building, 500 E Street SW, Washington, DC, beginning at 9:30 a.m. on July 25, 1995. All persons shall have the right to appear, by counsel or in person, to present information and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 500 E Street SW, Washington, DC 20436, no later than 5:15 p.m., July 13, 1995. Any prehearing briefs (original and 14 copies) should be filed not later than 5:15 p.m., July 13, 1995; the deadline for filing post-hearing briefs or statements is 5:15 p.m., August 1, 1995.

In the event that, as of the close of business on July 13, 1995, no witnesses are scheduled to appear at the hearing, the hearing will be cancelled. Any person interested in attending the hearing as an observer or non-participant may call the Secretary to the Commission (202-205-2000) after July 13, 1995, to determine whether the hearing will be held.

**Written Submissions:** In lieu of or in addition to participating in the hearing, interested parties are invited to submit written statements concerning the matters to be addressed by the Commission in its report on this investigation. Commercial or financial information that a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available in the Office of the Secretary of persons in the Office of the Secretary to the Commission. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted at the earliest practical date and should be received no later than August 1, 1995. All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW, Washington, DC 20436.

Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

Issued: May 5, 1995.

By order of the Commission.

**Donna R. Koehnke,**

*Secretary.*

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**[Investigation No. 337-TA-373]**

**Certain Low-Power Computer Hard Disk Drive Systems 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 4, 1995, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Conner Peripherals, Inc., 3081 Zanker Road, San Jose, California 95134-2128. A supplement to the complaint was filed on April 27, 1995. The complaint as supplemented alleges a violation 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 low-power computer hard disk drive systems and products containing same by reason of infringement of claims 1, 2, 7, 20-24, and 30 of U.S. Letters Patent 5,402,200. 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 a hearing, 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, S.W., Room 112, Washington, D.C. 20436, telephone 202-205-1802. 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:** Smith R. Brittingham IV, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202-205-2576.

**Authority:** The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Final

Rules of Practice and Procedure, 59 FR 39020, 39043 (August 1, 1994).

**Scope of Investigation:** Having considered the complaint, the U.S. International Trade Commission, on May 1, 1995, 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 low-power computer hard disk drive systems or products containing same by reason of infringement of claims 1, 2, 7, 20-24, or 30 of U.S. Letters Patent 5,402,200, 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—Conner Peripherals, Inc.

3081 Zanker Road, San Jose, California 95134-2128 (b) The respondent is the following company alleged to be in violation of section 337, and is the party upon which the complaint is to be served:

International Business Machines Corporation, 1 Old Orchard Road, Armonk, New York 10504

(c) Smith R. Brittingham IV, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Room 401-M, Washington, D.C. 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondent in accordance with section 210.13 of the Commission's Final Rules of Practice and Procedure, 59 FR 39020, 39045 (August 1, 1994). Pursuant to 19 CFR 201.16(d) and section 210.13(a) of the Commission's Final Rules, 59 FR at 39045, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting responses to the complaint and notice of investigation will not be granted unless good cause therefor is shown.