

Cisco notes that the ASIC is not, and can be used in other Cisco products with different configuration data. Additionally, Cisco states that the Polaris OS allows the NES to switch and route packets, which is the critical functional element of the NES. Cisco states that the configuration data physically changes the electrical values of the logic gates present in the ASICs and other components, by connecting the gates in combinations that tell the components how to function and communicate within the system. Cisco argues that the configuration data installed on the NES should be distinguished from software installations because the configuration data completes the hardware programming, physically changing the hardware itself. Cisco states the software's incorporation onto the NES is different because it runs on the completed hardware as opposed to being a part of the hardware itself.

Cisco cites HQ 563012, dated May 4, 2004, in support of its position. In HQ 563012, CBP held that the PCBA and casing that were manufactured for a switch in China, were substantially transformed in the United States or Hong Kong, where U.S.-origin software was loaded, and the PCBA was further assembled with a power supply, fans, and an A/C filter of various origins to form the final fabric switch. CBP noted that in addition to the actual assembly, the configuration and software download operations performed in either Hong Kong or in the United States transformed the switch from a non-functional device into a fabric switch that was capable of performing various storage network functions.

Similar to the scenario in HQ 563012, where Hong Kong was found to be the origin, in this case, the major components of the NES, particularly the PCBA comprised of the ASIC, CPU, SDRAM, and flash components, will be manufactured in China, and then shipped to another country where the final assembly (adding the casing, power supply, uplink modules, and ancillary devices to the PCBA), software loading, configuration, and testing take place. Here, the other country is Mexico, which is different from the country where the U.S.-origin software is developed. While CBP has normally focused on where the origin of the software and where the programming took place, applying CBP's precedent in HQ 563012 to Cisco's manufacturing operations in Mexico, we find that the PCBAs from China will be substantially transformed by the final assembly, software loading, configuration, and testing operations in Mexico, and thus the country of origin for purposes of U.S. Government procurement will be Mexico.¹

¹ See HQ H175415, dated October 4, 2011 (CBP held that imported Ethernet switches underwent a substantial transformation after U.S.-origin software was downloaded onto the devices' flash memory in the United States, which allowed the devices to function); see also HQ H052325, dated March 31, 2009 (holding that imported network devices underwent a substantial transformation in the United States after U.S.-origin software was downloaded onto the devices in the United States, which gave the devices their functionality); and, HQ H034843, dated May 5, 2009 (holding that Chinese USB flash drives underwent a substantial

HOLDING:

Based on the facts provided, the PCBAs from China will be substantially transformed into the NES by the processes that take place in Mexico. As such, the NES will be considered a product of Mexico for purposes of U.S. Government procurement.

Notice of this final determination will be given in the **Federal Register**, as required by 19 CFR 177.29. Any party-at-interest other than the party which requested this final determination may request, pursuant to 19 CFR 177.31, that CBP reexamine the matter anew and issue a new final determination. Pursuant to 19 CFR 177.30, any party-at-interest may, within 30 days of publication of the **Federal Register** Notice referenced above, seek judicial review of this final determination before the Court of International Trade.

Sincerely,

Alice A. Kipel,
Executive Director
Regulations and Rulings
Office of Trade

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INTERNATIONAL TRADE COMMISSION

[USITC SE-18-007]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: February 9, 2018 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205-2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Agendas for future meetings:* None.
 2. Minutes.
 3. Ratification List.
 4. Vote in Inv. Nos. 701-TA-592 and 731-TA-1400 (Preliminary) (Plastic Decorative Ribbons from China). The Commission is currently scheduled to complete and file its determinations on February 12, 2018; views of the Commission are currently scheduled to be completed and filed on February 20, 2018.
 5. *Outstanding action jackets:* None.
- In accordance with Commission policy, subject matter listed above, not

transformation in Israel when Israeli-origin software was loaded onto the devices, which made the devices functional). CBP has also held that when software is programmed in one country, and loaded onto a switch in different countries, the process of loading the software is not a sufficient operation by itself to result in a substantial transformation. See HQ H241177, dated December 3, 2013; and, HQ H240199, dated March 10, 2015.

disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission:

Issued: January 31, 2018.

William R. Bishop,

Supervisory Hearings and Information Officer.

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INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1099]

Certain Graphics Processors and Products Containing the Same Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on December 29, 2017, under section 337 of the Tariff Act of 1930, as amended, on behalf of ZiiLabs Inc., Ltd. of Bermuda. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain graphics processors and products containing the same by reason of infringement of certain claims of U.S. Patent No. 6,181,355 ("the '355 Patent"); U.S. Patent No. 6,900,800 ("the '800 Patent"); U.S. Patent No. 8,144,156 ("the '156 Patent"); and U.S. Patent No. 8,643,659 ("the '659 Patent"). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute.

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

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. 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-