



PRESS RELEASE
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Orrick Successfully Defends Three Semiconductor Companies Before the ITC
奧睿成功地在國際貿易委員會之前為三家半導體公司辯護

MENLO PARK, December 30, 2009 – A trial team with Orrick, Herrington & Sutcliffe LLP has successfully defended Acer Incorporated, Nanya Technology Corporation and Powerchip Semiconductor Corporation in an International Trade Commission (ITC) investigation filed by Tessera, Inc. against 15 Respondents (Certain Semiconductor Chips with Minimized Chip Package Size and Products Containing Same (III) (Investigation 337 - TA 630)).

美國 MENLO PARK, 2009 年 12 月 30 日 - 奧睿律師事務所的一個審判團隊成功地為宏碁股份有限公司、南亞科技股份有限公司與力晶半導體股份有限公司辯護，在美國國際貿易委員會 (ITC) 調查訴訟，由 Tessera, Inc. 提起對 15 個被告之訴訟 (某些半導體片有把晶片縮到最小封裝尺寸和和產品包含相同 (III) (337 調查 - 貿易協定))。

San Jose, Calif.-based Tessera, accused the DRAM manufacturers of infringing three of its packaging patents (U.S. Patent Nos: 5,663,106, 5,679,977 and 6,133,627) and asked the ITC for an exclusion order barring industry standard DRAMs from entering the U.S. In a hard-fought battle that spanned over two years, the Commission issued a final determination on December 29, 2009, stating "having examined the record of this investigation, including the Administrative Law Judge (ALJ) [Essex's] final ID, the Commission has determined that there is no violation of section 337."

美國加州聖何塞市 - 根據 Tessera 控告動態隨機存儲器 (DRAM) 製造商們侵犯它的三個封裝術專利權 (美國專利號碼：5,663,106 號，5,679,977 號，和 6,133,627 號)，並請求 ITC 一個驅逐令，命令除了工業標準的 DRAMs 以外進入美國。一個艱難的挑戰，它跨越了兩年多的時間，委員會於 2009 年 12 月 29 日發佈了最終的一個判決，聲明『這次調查之所有檢查記錄，包括行政法官 (ALJ) [埃塞克司斯的] 最後鑑定，委員會已終結，其未違反 337 條例。』

Specifically, the Commission affirmed the ALJ's finding that Acer, Nanya and Powerchip's accused products do not infringe Tessera's '106, '977 and '627 patents. In particular, the Commission affirmed the ALJ determination that Tessera's litigation testing methodology fails to prove infringement of Tessera's '977 and '627 patents, which Tessera previously had asserted multiple times against many other companies. The full notice can be found at:

http://www.usitc.gov/secretary/fed_reg_notices/337/337_630_notice12292009sgl.pdf

具體地，委員會維持 ALJ 的判決，判定宏碁，南亞和力晶半導體的被控告產品並未侵犯 Tessera 的 106 號，977 號和 627 號專利權。尤其，委員會維持 ALJ 的判決，其 Tessera 的訴訟試驗用的方法論未能證明 Tessera 以前所聲稱多年的對抗許多其他公司，有侵犯到 Tessera 的 977 號和 627 號專利權。完整的聲明可在此找到：

http://www.usitc.gov/secretary/fed_reg_notices/337/337_630_notice12292009sgl.pdf

Orrick's intellectual property team was led by Silicon Valley-based partner Hopkins Guy, and included partners Michael Heafey, Kai Tseng, Denise Mingrone, Matt Hult and Mark Wine and of counsel Sanjeet Dutta.

奧睿的智慧財產權團隊由矽谷成員所領導—以合夥人 Hopkins Guy 為基礎，並包括合夥人們 Michael Heafey、Kai Tseng(曾愷文)、Denise Mingrone、Matt Hult 和 Mark Wine 以及律師 Sanjeet Dutta。

Hopkins Guy commented: "While we have not yet seen the full analysis of the Commission, yesterday's notice of no violation and termination of the 630 investigation affirms Acer's, Nanya's and PowerChip's position that industry standard wBGA DDR2 and DDR3 DRAM components do not infringe Tessera's patents and may be imported. The Commission appears to have reversed some findings regarding MicroBGA products and while we do not know the details of that ruling yet, MicroBGA products are not generally used in industry standard DIMMs and were never imported or sold by our clients."

Hopkins Guy 評論：『當我們尚未見到委員會之完成分析時，昨日的通告關於沒有違反與終止 630 調查之證實宏碁、南亞與力晶半導體的立場，其工業標準 wBGA DDR2 和 DDR3 DRAM 構成要素並未侵犯 Tessera 的專利權並可以進口。委員會顯示擁有一些逆轉發現，關於 MicroBGA 產品和當我們並不知道其管理的細節時，MicroBGA 產品並不通用於工業標準 DIMMs 中，並且我們從未進口或由我們的客戶們賣給我們。』

He added: "This was a particularly difficult patent case because others had been unsuccessful defending against Tessera's accusations of infringement on related patents and that gave Tessera the appearance of momentum. We had to take a different approach to win and we did."

他進一步的說明：『這是一個特別困難的專利訴訟因為其他公司並未成功辯護對 Tessera 的控告關於違反在其相關的專利權，而這給予 Tessera 明顯的動力。我們必須採取一個不同的接近勝訴而我們做到了。』

The 630 Investigation started in December 2007 when Tessera sued Acer, Nanya and Powerchip, among others, accusing the companies of infringing its '977, '627 and '106 patents that relate to DRAMs packaged in ball grid arrays ("BGA"). After a multi-week hearing, ALJ Essex issued an Initial Determination finding that Acer, Nanya and Powerchip's accused products did not infringe the asserted claims of Tessera's patents and thus Tessera had not established that a violation occurred. Shortly thereafter, Tessera filed a petition to have the initial determination reviewed by the Commission.

630 調查開始於 2007 年 12 月當 Tessera 控告宏碁、南亞和力晶半導體，尤其控告一些侵犯 977 號、627 號和 106 號專利權的公司，其有關 DRAMs 封裝入球形格子配置("BGA")。在一個多週聽證會之後，行政法官(ALJ)埃塞克司斯(Exsex)發佈一個最初的判決判定宏碁、南亞和力晶半導體被控告的產品並未侵犯 Tessera 的專利所聲稱的主張，如此這般 Tessera 並未制定一個侵犯存在。立刻在那之後，Tessera 提出一個請求要有委員會復審後簽署的判決。

In addition to defending that accusations at the ITC, Michael Heafey and Sanjeet Dutta also led a team that has so far successfully attacked the validity of asserted claims of Tessera's '977, '627 and '106 patents via reexamination at the United States Patent Office.

除了在國際貿易委員會(ITC)被控告之辯護以外，Michael Heafey 和 Sanjeet Dutta 也帶領了一個團隊，到目前為止也成功地正確攻擊 Tessera 所聲稱的請求經由美國專利局重新檢驗的 977 號、627 號和 106 號專利權。

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About Orrick

關於奧睿

Orrick, Herrington & Sutcliffe LLP is a global law firm with more than 1,100 lawyers in North America, Europe and Asia. The firm focuses on litigation, complex and novel finance and innovative corporate transactions. Orrick clients include *Fortune* 100 companies, major industrial and financial corporations, commercial and investment banks, high-growth companies, governmental entities, start-ups and individuals. The firm's 21 offices are located in Beijing, Berlin, Düsseldorf, Frankfurt, Hong Kong, London, Los Angeles, Milan, Moscow, New York, Orange County, Pacific Northwest, Paris, Rome, Sacramento, San Francisco, Shanghai, Silicon Valley, Taipei, Tokyo and Washington, D.C.

奧睿律師事務所是一間跨國的法律事務所，有超過 1,100 名律師在北美洲、歐洲和亞洲。事務所集中注意在訴訟、復雜的和新穎的金融與創新的公司執行。奧睿的客戶包括財富 100 公司、政府的機構、剛創立的公司與個人。事務所全球 21 間辦公室座落在北京、柏林、Düsseldorf、法蘭克福、香港、倫敦、洛杉磯、米蘭、莫斯科、紐約、橙縣、Pacific Northwest、巴黎、羅馬、沙加緬度、舊金山、上海、矽谷、台北、東京和華盛頓特區。