

NOTE: Pursuant to Fed. Cir. R. 47.6, this order is not citable as precedent. It is a public order.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

01-1031, -1032, -1034

WINBOND ELECTRONICS CORPORATION
and WINBOND ELECTRONICS NORTH AMERICA CORPORATION,

Appellants,

and

SILICON STORAGE TECHNOLOGY, INC.,

Appellant,

and

SANYO ELECTRIC CO., LTD.,

Appellant,

and

MACRONIX INTERNATIONAL CO., LTD. and MACRONIX AMERICA, INC.,

Intervenors,

v.

INTERNATIONAL TRADE COMMISSION,

Appellee,

and

ATMEL CORPORATION,

Intervenor.

01-1128

ATMEL CORPORATION,

Appellant,

v.

INTERNATIONAL TRADE COMMISSION,

Appellee,

and

MACRONIX INTERNATIONAL CO., LTD. and MACRONIX AMERICA, INC.,

Intervenors,

and

WINBOND ELECTRONICS CORPORATION
and WINBOND ELECTRONICS NORTH AMERICA CORPORATION,

Intervenors,

and

SILICON STORAGE TECHNOLOGY, INC.,

Intervenor,

Before CLEVENGER, RADER, and DYK, Circuit Judges.

RADER, Circuit Judge.

ORDER

The final determination of the International Trade Commission concerning Atmel's U.S. Patent No. 4,451,903 (the '903 patent) with respect to Winbond Electronics Corporation, Winbond Electronics North America Corporation, Silicon Storage Technology, Inc. and Sanyo Electric Co., Ltd., is affirmed in appeal Nos. 01-1031, -1032, -1034. The final determination concerning infringement of the '903 patent with respect to Macronix International Co., Ltd. and Macronix America, Inc., in appeal No. 01-1128 is vacated and remanded to the Commission for further proceedings. The final determination of the Commission in appeal No. 01-1128 regarding Order No. 50 is affirmed.

The court today is issuing an opinion with respect to the issues of claim construction and infringement of the '903 patent. An opinion will follow in due course with respect to the remaining issues concerning the '903 patent upholding the following determinations of the Commission:

that Respondents have not shown that the '903 patent is unenforceable due to inequitable conduct;

that Respondents have not shown that the '903 patent is unenforceable due to improper joinder;

that Respondents have not shown that the '903 patent is unenforceable due to waiver and implied license;

that Atmel waived its attorney-client privilege and work product protections dating back to January 1997.

The remaining issues in appeal No. 01-1128 concerning Patents Nos. 4,511,811 and 4,673,829 will be briefed and argued in the normal course.