

UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, D.C.

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In the Matter of

CERTAIN SEMICONDUCTOR  
INTEGRATED CIRCUITS USING  
TUNGSTEN METALLIZATION AND  
PRODUCTS CONTAINING SAME

Inv. No. 337-TA-648

Order No. 110

On July 2, 2009, the United States Bankruptcy Court for the Eastern District of Virginia, Alexandria Division, Case No. 09-14766 (RGM), issued an Order Issuing Preliminary Injunction staying the present investigation as to respondent Qimonda AG. Paragraph 3 of the Order states, “The litigation entitled *In the Matter of Certain Semiconductor Integrated Circuits Using Tungsten Metallization*, Inv. No. 337-TA-648, under Section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) before the United States International Trade Commission (**‘LSI Action’**) is hereby stayed with respect to the Debtor pending a determination on the Recognition Order.” (Court’s emphasis) (Order attached). The Bankruptcy Court’s Order does not extend to any of the other respondents in this investigation. *Id.* ¶ 4.

In view of the Court's Order, this investigation is *stayed* as to Qimonda AG.<sup>1</sup>

So Ordered.

*Carl C. Charneski*

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Carl C. Charneski  
Administrative Law Judge

Issued: July 15, 2009

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<sup>1</sup> As for all other parties, the hearing in this investigation will commence on July 20, 2009.


**CERTAIN SEMICONDUCTOR INTEGRATED CIRCUITS USING TUNGSTEN METALLIZATION AND PRODUCTS CONTAINING SAME**

INV. NO. 337-TA-648

**PUBLIC CERTIFICATE OF SERVICE**

I, Marilyn R. Abbott, hereby certify that the attached **ORDER** has been served upon the Commission Investigative Attorney, Ret Snotherly, Esq., and the following parties as indicated, on

JUL 15 2009

  
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U.S. International Trade Commission  
500 E Street, SW, Room 112A  
Washington, D.C. 20436

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**CERTAIN SEMICONDUCTOR INTEGRATED CIRCUITS USING TUNGSTEN METALLIZATION AND PRODUCTS CONTAINING SAME**

**INV. NO. 337-TA-648**

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**INV. NO. 337-TA-648**

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**CERTAIN SEMICONDUCTOR INTEGRATED CIRCUITS USING TUNGSTEN  
METALLIZATION AND PRODUCTS CONTAINING SAME**

**INV. NO. 337-TA-648**

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**CERTAIN SEMICONDUCTOR INTEGRATED CIRCUITS USING TUNGSTEN  
METALLIZATION AND PRODUCTS CONTAINING SAME**

**INV. NO. 337-TA-648**

Kenneth Clair  
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UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION

In re

QIMONDA AG,

Debtor in a Foreign Proceeding.

Case No. 09-14766 (RGM)

Chapter 15

**ORDER ISSUING PRELIMINARY INJUNCTION**

This matter came before the Court on the *Emergency Motion for Provisional Injunctive Relief, Pending Recognition of Foreign Main Proceeding, in the Form of a Preliminary Injunction After Notice and a Hearing* (Docket No. 21) (the “**Motion**”), filed on June 23, 2009, by Dr. Michael Jaffé as the duly appointed representative (“**Foreign Representative**”) of Qimonda AG (“**Debtor**”) in an insolvency proceeding (“**Foreign Proceeding**”) pending before the Amtsgericht - Insolvenzgericht München (Local Court - Insolvency Court Munich).

The Foreign Representative also filed the following documents and pleadings on June 15, 2009 (collectively, the “**Supporting Documents**”): (i) *Official Form 1 (1/08) Voluntary Petition* and its attachments; (ii) *Verified Petition for Recognition of a Foreign Main Proceeding and Motion for Permanent Injunction and Related Relief Pursuant to 11 U.S.C. §§ 1504, 1515, 1517, 1520, and 1521* (“**Petition**”); (iii) *Declaration of Rechtsanwalt Dr. Christian Pleister in Support of Verified Petition for Recognition of a Foreign Main Proceeding and Motion for Permanent Injunction and Related Relief Pursuant to 11 U.S.C. §§ 1504, 1515, 1517, 1520, and 1521*; (iv) *Declaration of Thomas Seifert in Support of Verified Petition for Recognition of a Foreign Main Proceeding and Motion for Permanent Injunction and Related Relief Pursuant to 11 U.S.C. §§ 1504, 1515, 1517, 1520, and 1521*; and (v) *Statement of Rechtsanwalt Dr. Michael Jaffé*

*Pursuant to Bankruptcy Code 1515(c) and Bankruptcy Rule 1007(a)(4).*

This Court held a hearing on the Motion on July 1, 2009 (“**Hearing**”). The Court has considered the Motion, the Supporting Documents, the statements made on the record at the Hearing, and the entire record in this Chapter 15 case.

Based on the foregoing, the Court finds and concludes that: (i) the Court has jurisdiction over this Chapter 15 case and the matters raised in the Motion under 28 U.S.C. §§ 157 and 1334; (ii) this is a core proceeding under 28 U.S.C. § 157(b)(2)(P); (iii) venue is proper in this District under 28 U.S.C. § 1410; (iv) proper notice of the Motion, the Supporting Documents, and the Hearing has been given and no further notice is necessary; (v) there is a substantial likelihood that the Foreign Representative will be able to demonstrate that the Foreign Proceeding must be recognized as a “foreign main proceeding” under Bankruptcy Code § 1517; (vi) the provisional relief set forth in this Order is urgently needed to effectuate the purpose and objectives of Chapter 15, to protect the assets of the Debtor, and to protect the interests of the Debtor’s creditors; (vii) litigation between private parties under Section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) before the United States International Trade Commission does not meet the requirements of 11 U.S.C. § 362(b)(4); and (viii) good cause exists such that this Order should remain in effect until the Court rules on the Petition.

Based on the foregoing, and the reasons stated in the Memorandum Opinion to be filed,

**IT IS ORDERED THAT:**<sup>1</sup>

1. The Foreign Representative’s motion for issuance of a preliminary injunction under Bankruptcy Code § 1519 is GRANTED.

2. The litigation commenced by Lakita Blair, Linda Frazier, and Bonnie Wright under the Worker Adjustment and Retraining Notification Act against QAG in the Eastern District of Virginia and the District of Delaware (each, a “**WARN Act Action**”) is hereby stayed

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<sup>1</sup> All capitalized terms used but not otherwise defined in this Order shall have the meaning ascribed to them in the

pending a determination on the Recognition Order.

3. The litigation entitled *In the Matter of Certain Semiconductor Integrated Circuits Using Tungsten Metallization*, Inv. No. 337-TA-648, under Section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) before the United States International Trade Commission (“**LSI Action**”) is hereby stayed with respect to the Debtor pending a determination on the Recognition Order.

4. The stay of the LSI Action shall be limited to the Debtor, and does not apply to other parties to the LSI Action. The LSI Action shall continue without the participation of the Debtor.

5. The stay of the LSI Action shall apply to Debtor’s noninfringement, licensing, and other defenses; however, the Debtor shall be bound by the United States International Trade Commission’s ruling on the validity of the asserted patent, U.S. Patent No. 5,227,335 (unless said ruling is reversed or otherwise modified by a court or agency of competent jurisdiction).

6. In the event of the issuance of an exclusion order in the LSI Action (following the presidential review period described in 19 U.S.C. § 1337(j)) that applies to the Debtor, the Court shall hear arguments concerning what relief, if any, should be accorded to LSI Corporation vis-à-vis the assets of Debtor remaining at that time.

7. The plaintiffs in the WARN Act Actions and the LSI Action are enjoined from executing against any of the Debtor’s assets that are located within the jurisdiction of the United States (“*U.S. Assets*”).

8. Under Bankruptcy Rule 7065, the security provisions of Rule 65(c) of the Federal Rules of Civil Procedure are waived.

9. This Order is effective as of the date and time set forth below.

10. This Order shall continue in full force and effect until the date and time that the Court rules on the Petition. If the Petition is granted, the stay of the LSI Action shall remain in effect for the duration of the LSI Action, including any appeals to the United States International

Trade Commission and/or the United States Court of Appeals for the Federal Circuit.

Effective: July 2, 2009 at 7:10 p.m.

Alexandria, Virginia  
July 2, 2009

/s/Robert G. Mayer  
Robert G. Mayer  
United States Bankruptcy Judge

WE ASK FOR THIS:

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*Attorneys for Dr. Michael Jaffé, as insolvency  
administrator over the estate of Qimonda AG*

**Local Rule 9022-1(C) Certification**

The foregoing Order was endorsed by and/or served upon all necessary parties pursuant to Local Rule 9022-1(C).

/s/ Jeff A. Showalter  
Jeff A. Showalter

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**United States International Trade Commission**  
**Investigation No. 337-TA-648**  
**In the Matter of Certain Semiconductor Integrated Circuits**  
**Using Tungsten Metallization and Products Containing Same**

**CERTIFICATE OF SERVICE**

The undersigned certifies that, on July 6, 2009, he caused the foregoing document to be served upon the following parties as indicated below:


<p>The Honorable Marilyn R. Abbott  Secretary  U.S. International Trade Commission  500 E Street, S.W., Room 112  Washington, D.C. 20436</p>	<p><input checked="" type="checkbox"/> Original &amp; Six Copies - Via Hand Delivery  <input type="checkbox"/> Via Electronic Filing</p>
<p>The Honorable Carl C. Charneski  Administrative Law Judge  U.S. International Trade Commission  500 E Street, S.W., Suite 317  Washington, D.C. 20436</p>	<p>Two (2) Copies, Via Hand Delivery</p>
<p>Everett Snotherly  Office of Unfair Import Investigations  U.S. International Trade Commission  500 E Street, S.W., Suite 401  Washington, D.C. 20436</p>	<p><input checked="" type="checkbox"/> Via Hand Delivery  <input checked="" type="checkbox"/> Via Electronic Mail  Everett.Snotherly@usitc.gov  <input type="checkbox"/> Via First Class Mail  <input type="checkbox"/> Via Overnight Delivery</p>
<p><b><i>On behalf of LSI Corporation and Agere Systems, Inc.:</i></b>  Louis S. Mastriani  ADUCCI, MASTRIANI &amp; SCHAUMBERG, LLP  1200 17th St, NW, Fifth Floor  Washington, D.C. 20036</p>	<p><input type="checkbox"/> Via Hand Delivery  <input checked="" type="checkbox"/> Via Electronic Mail  agere@adduci.com  <input type="checkbox"/> Via First Class Mail  <input type="checkbox"/> Via Overnight Delivery</p>
<p><b><i>On behalf of LSI Corporation and Agere Systems, Inc.:</i></b>  David E. Sipiora  TOWNSEND &amp; TOWNSEND &amp; CREW LLP  1400 Wewatta Street  Suite 600  Denver, CO 80202-5556.</p>	<p><input checked="" type="checkbox"/> Via Electronic Mail  LSI-ITC@townsend.com  <input type="checkbox"/> Via First Class Mail  <input type="checkbox"/> Via Overnight Delivery</p>
<p><b><i>On behalf of LSI Corporation and Agere Systems, Inc.:</i></b>  Iris Sockel Mitrakos  TOWNSEND &amp; TOWNSEND &amp; CREW LLP  12730 High Bluff Drive, Suite 400  San Diego, CA 92130</p>	<p><input checked="" type="checkbox"/> Via Electronic Mail  LSI-ITC@townsend.com  <input type="checkbox"/> Via First Class Mail  <input type="checkbox"/> Via Overnight Delivery</p>
<p><b><i>On behalf of LSI Corporation and Agere Systems, Inc.:</i></b>  Jonathan D. Link  TOWNSEND &amp; TOWNSEND &amp; CREW LLP  1301 K Street, NW  Ninth Floor, East Tower  Washington, DC 20005</p>	<p><input type="checkbox"/> Via Hand Delivery  <input checked="" type="checkbox"/> Via Electronic Mail  LSI-ITC@townsend.com  <input type="checkbox"/> Via First Class Mail  <input type="checkbox"/> Via Overnight Delivery</p>

<p><b><i>On behalf of LSI Corporation and Agere Systems, Inc.:</i></b>  Tali L. Alban  TOWNSEND &amp; TOWNSEND &amp; CREW LLP  2 Embarcadero Center, 8th Floor  San Francisco, CA 94111</p>	<input checked="" type="checkbox"/> Via Electronic Mail LSI-ITC@townsend.com <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Via Overnight Delivery
<p><b><i>On behalf of Cypress Semiconductor Corp.:</i></b>  Jeffrey R. Whieldon  FISH &amp; RICHARDSON P.C.  1425 K St, NW, 11th Floor  Washington, DC 20005</p>	<input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Via Electronic Mail 337-648Cypress@fr.com <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Via Overnight Delivery
<p><b><i>On behalf of Cypress Semiconductor Corp.:</i></b>  Thomas L. Halkowski  FISH &amp; RICHARDSON P.C.  919 N. Market St, Suite 1100  P.O. Box 1114  Wilmington, DE 19899</p>	<input checked="" type="checkbox"/> Via Electronic Mail 337-648Cypress@fr.com <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Via Overnight Delivery
<p><b><i>On behalf of Cypress Semiconductor Corp.:</i></b>  Francis Albert  FISH &amp; RICHARDSON P.C.  12390 El Camino Real  San Diego, CA 92130</p>	<input checked="" type="checkbox"/> Via Electronic Mail 337-648Cypress@fr.com <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Via Overnight Delivery
<p><b><i>On behalf of Cypress Semiconductor Corp.:</i></b>  Frank E. Scherkenbach  FISH &amp; RICHARDSON P.C.  225 Franklin St.  Boston, MA 02110</p>	<input checked="" type="checkbox"/> Via Electronic Mail 337-648Cypress@fr.com <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Via Overnight Delivery
<p><b><i>On behalf of Cypress Semiconductor Corp.:</i></b>  David Loretto  FISH &amp; RICHARDSON P.C.  Citigroup Center - 52nd Floor  153 East 53rd St.  New York, NY 10022</p>	<input checked="" type="checkbox"/> Via Electronic Mail 337-648Cypress@fr.com <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Via Overnight Delivery
<p><b><i>On behalf of Cypress Semiconductor Corp.:</i></b>  Jonathan J. Lamberson  FISH &amp; RICHARDSON P.C.  500 Arguello St., Suite 500  Redwood City, CA 94063</p>	<input checked="" type="checkbox"/> Via Electronic Mail 337-648Cypress@fr.com <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Via Overnight Delivery
<p><b><i>On behalf of STMicroelectronics N.V.:</i></b>  James L. Quarles III  WILMER CUTLER PICKERING HALE AND  DORR LLP  1875 Pennsylvania Ave., NW  Washington, DC 20006</p>	<input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Via Electronic Mail WH337TA648@wilmerhale.com <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Via Overnight Delivery
<p><b><i>On behalf of STMicroelectronics N.V.:</i></b>  Richard Goldenberg  WILMER CUTLER PICKERING HALE AND  DORR LLP  60 State St.  Boston, MA 02109</p>	<input checked="" type="checkbox"/> Via Electronic Mail WH337TA648@wilmerhale.com <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Via Overnight Delivery

<p><b><i>On behalf of Grace Semiconductor Manufacturing Corp.:</i></b>  Nathan L. Walker  WILMER CUTLER PICKERING HALE AND DORR LLP  1117 S. California Ave.  Palo Alto, CA 94304</p>	<input checked="" type="checkbox"/> Via Electronic Mail WHGraceITC-LSI-Agere@wilmerhale.com <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Via Overnight Delivery
<p><b><i>On behalf of Grace Semiconductor Manufacturing Corp.:</i></b>  Michael D. Esch  WILMER CUTLER PICKERING HALE AND DORR LLP  1875 Pennsylvania Ave., NW  Washington, DC 20006</p>	<input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Via Electronic Mail WHGraceITC-LSI-Agere@wilmerhale.com <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Via Overnight Delivery
<p><b><i>On behalf of Integrated Device Technology, Inc.:</i></b>  Samuel Maselli  WILMER CUTLER PICKERING HALE AND DORR LLP  1117 California Avenue  Palo Alto, California 94304</p>	<input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Via Overnight Delivery <input checked="" type="checkbox"/> Via Electronic Mail WHIDT_648-itc@wilmerhale.com
<p><b><i>On behalf of Microchip Technology Inc., ProMOS Technologies, Inc., United Microelectronics Corporation, Micronas Semiconductor Holdings, AG, and Dongbu HiTek Co., Ltd.:</i></b>  Sturgis M. Sobin  COVINGTON &amp; BURLING LLP  1201 Pennsylvania Avenue, NW  Washington, DC 20004</p>	<input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Via Electronic Mail Tungsten337@cov.com <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Via Overnight Delivery
<p><b><i>United Microelectronics Corporation:</i></b>  J. Nicholas Gross  Attorney at Law  2030 Addison Street, Suite 610  Berkeley, CA 94704</p>	<input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Via Electronic Mail Tungsten337@cov.com <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Via Overnight Delivery

<p><b><i>On behalf of National Semiconductor Corporation:</i></b>          Brian E. Ferguson          WEIL, GOTSHAL, &amp; MANGES LLP          1300 Eye Street, NW, Suite 900          Washington, DC 20005</p>	<p><input type="checkbox"/> Via Hand Delivery  <input checked="" type="checkbox"/> Via Electronic Mail              lsi_nsc_its_service@weil.com  <input type="checkbox"/> Via First Class Mail  <input type="checkbox"/> Via Overnight Delivery</p>
<p><b><i>On behalf of National Semiconductor Corporation:</i></b>          Wasif H. Qureshi          WEIL, GOTSHAL, &amp; MANGES LLP          700 Louisiana Street, Suite 1600          Houston, TX 77002</p>	<p><input checked="" type="checkbox"/> Via Electronic Mail              lsi_nsc_its_service@weil.com  <input type="checkbox"/> Via First Class Mail  <input type="checkbox"/> Via Overnight Delivery</p>
<p><b><i>On behalf of Elpida Memory, Inc.:</i></b>          Marcia H. Sundeen          KENYON &amp; KENYON LLP          1500 K Street, NW          Washington, DC 20005</p>	<p><input type="checkbox"/> Via Hand Delivery  <input checked="" type="checkbox"/> Via Electronic Mail              13486-40000-LSIvElpida@kenyon.com  <input type="checkbox"/> Via First Class Mail  <input type="checkbox"/> Via Overnight Delivery</p>
<p><b><i>On behalf of Elpida Memory, Inc.:</i></b>          George E. Badenoch          KENYON &amp; KENYON LLP          One Broadway          New York, NY 10004</p>	<p><input checked="" type="checkbox"/> Via Electronic Mail              13486-40000-LSIvElpida@kenyon.com  <input type="checkbox"/> Via First Class Mail  <input type="checkbox"/> Via Overnight Delivery</p>
<p><b><i>On behalf of Powerchip Semiconductor Corporation, Nanya Technology Corporation, and Spansion Corporation:</i></b>          Curt Holbreich          K&amp;L GATES LLP          4 Embarcadero Center, Suite 1200          San Francisco, CA 94111</p>	<p><input checked="" type="checkbox"/> Via Electronic Mail              Nanya-PSC@klgates.com  <input type="checkbox"/> Via First Class Mail  <input type="checkbox"/> Via Overnight Delivery</p>
<p><b><i>On behalf of Jazz Semiconductor and Tower Semiconductor, Ltd.:</i></b>          Gary A. Hecker          THE HECKER LAW GROUP, PLC          1925 Century Park East, Suite 2300          Los Angeles, CA 90067</p>	<p><input checked="" type="checkbox"/> Via Electronic Mail              jazz337@hh.com              tower337@hh.com  <input type="checkbox"/> Via First Class Mail  <input type="checkbox"/> Via Overnight Delivery</p>
<p><b><i>On behalf of MagnaChip Semiconductor, Ltd.:</i></b>          Mark Fowler          DLA Piper US LLP          2000 University Avenue          East Palo Alto, CA 94303</p>	<p><input checked="" type="checkbox"/> Via Electronic Mail              MagnaChip_DLA_648@dlapiper.com  <input type="checkbox"/> Via First Class Mail  <input type="checkbox"/> Via Overnight Delivery</p>

Dated: July 6, 2009

  
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