

**UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, DC**

In the Matter of

CERTAIN INFOTAINMENT SYSTEMS,
COMPONENTS THEREOF, AND
AUTOMOBILES CONTAINING THE SAME

Investigation No. 337-TA-3316

**PROPOSED RENESAS RESPONDENTS' RESPONSE TO THE
COMMISSION'S SOLICITATION OF COMMENTS
RELATING TO THE PUBLIC INTEREST**

Proposed Respondents Renesas Electronics Corporation and Renesas Electronics America, Inc. (collectively, "Renesas") respectfully submit this response to the Commission's solicitation of comments concerning the public interest issues raised by the Complaint and the Section 210.8(b) Statement filed by Complainant Broadcom Corporation ("Broadcom"). *See* 83 Fed. Reg. 22102 (May 11, 2018).

Renesas is a leading supplier of electronic components for a variety of automotive, industrial, and broad-based applications, including system-on-chips ("SoCs") that function as the brains of infotainment systems and core automobile functions. For example, Renesas's R-Car series of SoCs are a preferred choice for many automotive infotainment and related-systems manufacturers, which in turn supply products to a significant portion of the U.S. automobile industry. Renesas has and continues to make substantial contributions to the U.S. economy through its domestic operations, having over 1,000 U.S. employees and investing hundreds of millions of dollars in R&D in 2017. Renesas' substantial domestic investments are evidenced by

its 2017 acquisition of Intersil,¹ a U.S. semiconductor company with manufacturing, warehousing, and office facilities totaling over 500,000 square feet in Palm Bay, Florida.²

Broadcom seeks a remedy that would broadly exclude critical automotive systems, components, and downstream automobiles, which would disrupt multiple levels of the supply chain for several years. Billions of dollars in U.S. commerce would be impacted, threatening U.S. manufacturing and jobs. At the very least, Broadcom's requested remedy would be contrary to the public interest because it would impede consumer access to federally required and/or cutting edge automotive safety-enhancing technologies. Thus, contrary to Broadcom's conclusory statements that exclusion of the accused products "are not believed to implicate significant public health, safety, or welfare concerns,"³ the requested remedial orders would cause significant harm to the public interest.⁴ As further explained below, Renesas respectfully requests that the Commission delegate consideration of the public interest factors to the presiding ALJ, should the Commission decide to institute an investigation.

A. Exclusion of the Accused Products Would Cause a Shortfall and Could Not Be Replaced within a Commercially Reasonable Time

Broadcom's unsupported assertions that the accused systems, components, and automobiles could be replaced within a commercially reasonable time by third parties (none of which Broadcom identifies as licensees)⁵ do not comport with the realities of the automotive

¹ See Renesas Electronics Corporation Financial Report 2017, at 54, <https://www.renesas.com/en-us/media/about/ir/library/report/FinancialReport-fy17-ver02.pdf>.

² See Intersil Corporation 2016 10K, at 19, <https://www.sec.gov/Archives/edgar/data/1096325/000109632517000006/isil-20161230x10k.htm>.

³ Broadcom Public Interest Statement at 2 (May 7, 2018).

⁴ Indeed, the Commission has already concluded that remedial orders directed to similar accused products potentially raise serious public interest concerns when it delegated public interest to the ALJ in a previous investigation involving similar products. See *Certain Computing or Graphics Systems, Components Thereof, and Vehicles Containing Same*, Inv. No. 337-TA-984, Notice of Institution of Investigation at 2 (Jan. 29, 2016). Certain Renesas R-Car SoCs, Denso Ten infotainment systems, and Toyota vehicles were all accused products in that investigation.

⁵ Furthermore, Broadcom does not purport to supply competitive SoCs, let alone competitive infotainment and related systems that are incorporated into downstream automobiles. Rather, Broadcom identifies third-party

industry. First, replacement of the infotainment systems and components thereof at issue cannot be accomplished by simply sourcing from another supplier. Infotainment system SoCs, such as the accused Renesas R-Car H2 and R-Mobile A1 SoCs, are not fungible items – each supplier has developed its own approach to design and development, and each SoC has unique functionality and software specific to its customers’ requirements.

Second, the integration of these SoCs into infotainment and related systems requires two to three years of extensive research and development, qualification and testing. On information and belief, infotainment system suppliers and automobile manufactures then require another significant period of time to integrate infotainment and related-systems into downstream automobiles. Given the stringent safety, reliability, and durability levels required in the automotive industry, great care must be taken to ensure that any replacement components and systems perform safely and effectively in the vehicles into which they will be incorporated.

Thus, replacing the accused products (spanning three different levels of the supply chain) would require several years – far from a commercially reasonable period of time and contrary to the public interest.

B. The Requested Relief Would Have Significant Negative Consequences for the U.S. Economy, Manufacturing, Jobs, and Consumers

Not only does Broadcom ignore the time-intensive process to design, develop, and integrate automotive SoCs into infotainment systems (and then into automobiles), the requested remedy would disrupt billions of dollars of U.S. commerce. Broadcom accuses Renesas and Panasonic SoCs, and JRC GPS products, which are incorporated into Denso Ten or Panasonic infotainment systems. Broadcom also accuses or seeks remedies impacting several Toyota

infotainment system suppliers such as Harman, Bosch, Continental, Alpine, and Delphi. *See* Broadcom Public Interest Statement at 3. To the extent that any of these third-party companies (or any other potential third-party suppliers) source accused components from any of the proposed respondents, their ability to supply replacement infotainment systems would also be jeopardized by the requested remedial orders.

automobiles, many of which are manufactured domestically with accused systems and components. Even if the accused infotainment systems and components could be substituted, it would take several years to accomplish, thus threatening domestic manufacturing of Toyota vehicles and the skilled workers at those manufacturing facilities, car dealerships and their employees, and related businesses.

Broadcom also fails to address the potential impacts on unnamed automobile companies, including major U.S. automakers, that source accused imported Renesas and Panasonic SoCs, JRC GPS products, or Denso Ten and Panasonic infotainment systems for assembly into U.S.-made vehicles. Given the lengthy and complex process required to substitute infotainment systems and components, Broadcom's requested remedial orders threaten additional billions of dollars in U.S. commerce and untold U.S.-made vehicles and jobs supporting the manufacture and sale of those vehicles. The impacts on the U.S. economy could be significant – undoubtedly in contravention of the public interest.⁶

C. The Remedy Sought by Broadcom Would Result in Significant Harm to Public Health, Safety, and Welfare

Broadcom also fails to address the sweeping effects that its requested remedial orders would have on automotive safety. The accused systems and components supply or enable critical advanced safety features to help drivers operate their vehicles more safely, such as advanced emergency breaking, collision avoidance, lane assist, hands-free feature technology,

⁶ The requested exclusion of entire Toyota automobiles, including the hybrid Prius model which represents approximately 50% of total hybrid sales in the U.S., based on the purported infringement by a small system or component would be unprecedented. In the well-known *EPROMs* decision, the Commission utilized a balancing test (subsequently known as the *EPROMs* factors) to determine whether downstream products that incorporate infringing components should be excluded. See *Certain Erasable Programmable Read Only Memories (EPROM)*, Inv. No. 337-TA-276, USITC Pub. No. 2196 (May 1989), *aff'd sub nom., Hyundai Elec. Indus. Co. v. U.S. Int'l Trade Comm'n*, 899 F.2d 1204 (Fed. Cir. 1990). There, the Commission rejected complainant's request to exclude imported Hyundai vehicles that contained chips made by Hyundai which were found to infringe. Here, the Commission should continue to reject calls such as Broadcom's for disproportionate relief that imposes significant negative impacts on the public interest.

back-up camera systems, and navigation systems that provide directions and display traffic conditions. All of these functions promote safe driving, with many now available as standard or optional features on new vehicles sold in the United States.

Furthermore, the requested remedies would interfere with the United States Department of Transportation's National Highway Transportation Safety Administration's ("NHTSA") mandate that all new vehicles sold as of May 1, 2018, must have rear visibility technology, in effect requiring backup cameras. Given the lengthy lead-time and complex process required to modify infotainment system, component, and vehicle design, the requested remedies would impede compliance with NHTSA's back-up camera rule by reducing the number of new vehicles available with the necessary display technology for improved rear visibility.⁷ Moreover, it is likely that the requested remedies would lead to fewer purchases of new cars, thereby reducing the prevalence of cars on the road with enhanced safety features.

D. Conclusion

The overbroad requested remedial orders aimed at multiple suppliers of essential automotive applications and one of the biggest automakers in the U.S. threaten to disrupt billions of dollars in U.S. commerce and materially impact the availability of the latest automobile safety technologies. Moreover, the potential impacts to unnamed automakers that domestically manufacture vehicles that incorporate accused imported infotainment systems and components exacerbates the threats to the public interest raised by the requested remedial orders.

For the foregoing reasons, Renesas respectfully requests that the Commission delegate consideration of the public interest factors to the presiding ALJ should the Commission decide to institute an investigation.

⁷ Broadcom also lists "cameras" as a type of accused product, thereby directly implicating the availability and operability of back-up cameras. *See* Complaint at ¶ 1.

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Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of **PROPOSED RENESAS RESPONDENTS' RESPONSE TO THE COMMISSION'S SOLICITATION OF COMMENTS RELATING TO THE PUBLIC INTEREST** has been filed and served on May 21, 2018, as indicated, on the following:

<p>The Honorable Lisa R. Barton Secretary to the Commission U.S. International Trade Commission 500 E. Street, S.W., Room 112A Washington, DC 20436</p>	<p><input type="checkbox"/> First Class Mail <input checked="" type="checkbox"/> Hand Delivery (8 copies) <input type="checkbox"/> Overnight Delivery <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> EDIS <input type="checkbox"/> Email <input type="checkbox"/> Not Served</p>
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<p>John M. Caracappa Steptoe & Johnson LLP 1330 Connecticut Ave. NW Washington, DC 20036 <i>Counsel for Complainant Broadcom Corporation</i></p>	<p><input type="checkbox"/> First Class Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> Overnight Delivery <input type="checkbox"/> Facsimile <input type="checkbox"/> EDIS <input type="checkbox"/> Email <input type="checkbox"/> Not Served</p>

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