

**Congress of the United States**  
**Washington, DC 20515**

November 20, 2019

The Honorable Lisa A. Barton  
Secretary to the Commission  
U.S. International Trade Commission  
500 E Street, SW  
Washington, DC 20436

Re: 337-TA-1089, In the Matter of Certain Memory Modules and Components Thereof

Dear Secretary Barton:

I am writing you today regarding the initial determination by the Administrative Law Judge in the matter related to certain memory modules and components thereof manufactured by SK Hynix. Based on the materials in the public record, I am concerned that the issuance of an exclusion order would harm U.S. consumers and the domestic economy more broadly.

Any exclusion order would severely distort supply chains and pricing, and that cost would be borne by U.S. manufacturers and consumers, and risk U.S. jobs. SK Hynix manufactures over 30% of all memory modules available in the United States, and the remaining producers do not have the capacity to address any shortfall caused by an exclusion order. These memory modules are a key component of servers and computers, including those made by major U.S. technology companies like Dell and Hewlett Packard Enterprise Company. Businesses, local and State governments, law enforcement, and even Federal agencies rely on enterprise servers that use these products. Any action that might limit supply of these memory modules could have significant downstream effects on these supply chains.

Furthermore, I understand the U.S. Patent and Trademark Office (USPTO) invalidated the petitioner's claims on these patents in parallel proceedings. Exclusion of SK Hynix's products based on patent claims that have been found invalid by the USPTO would undermine the patent review process. Attaching exclusionary power to invalidated patent claims contravenes the strong federal policy interest in permitting full and free competition in the use of ideas that are part of the public domain.

Given the potential consequences I outline above, I urge your agency to weigh heavily the public interest in preserving a healthy market for memory modules.

Sincerely,



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Ted Budd  
Member of Congress