

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

# United States Court of Appeals for the Federal Circuit

04-1473, -1474

RENESAS TECHNOLOGY AMERICA, INC.,

Plaintiff-Appellee,

v.

UNITED STATES,

Defendant-Appellant,

and

MICRON TECHNOLOGY, INC.,

Defendant-Appellant.

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DECIDED: July 1, 2005

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Before NEWMAN, MAYER, and CLEVINGER, Circuit Judges.

CLEVINGER, Circuit Judge.

The government appeals the final decision of the United States Court of International Trade granting summary judgment to Renesas Technology America, Inc. ("the appellee"). See Renesas Tech. Am., Inc. v. United States, No. 00-00114 (Ct. Int'l Trade Aug. 18, 2003) ("Renesas").

The relevant facts and issues raised by the parties in this case are materially indistinguishable from those in Nissei Sangyo Am., Ltd. v. United States, No. 04-1469, -1492 (Fed. Cir. July 1, 2005) ("Nissei Sangyo"). As discussed in Nissei Sangyo, this court's decisions in Consolidated Bearings Co. v. United States, 348 F.3d 997 (Fed. Cir.

2003) ("Consolidated Bearings I") and Consolidated Bearings Co. v. United States, No. 04-1556 (Fed. Cir. June 21, 2005) ("Consolidated Bearings II") foreclose the appellee's arguments. In those cases, this court held that an unreviewed reseller is not statutorily entitled to the manufacturer's review rate and that the Department of Commerce ("Commerce") has consistently liquidated unreviewed entries at the cash deposit rate. Therefore the instructions from Commerce in this case ordering Customs to liquidate appellee's entries at the cash deposit rate were in accordance with law and were not arbitrary, capricious, or an abuse of discretion.

In accordance with the decisions in Consolidated Bearings I, Consolidated Bearings II, and Nissei Sangyo, we must reverse the decision of the Court of International Trade.