

complaint filed on behalf of Netlist, Inc. of Irvine, California. 81 FR 69853–54. The complaint, as supplemented, alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, by reason of infringement of certain claims of the following U.S. Patent Nos.: 8,756,364 (“the ‘364 patent”); 8,689,064; 8,516,185; 8,001,434 (“the ‘434 patent”); 8,359,501 (“the ‘501 patent”); and 8,489,837. The Commission’s notice of investigation named SK Hynix Inc. of Gyeonggi-do, Republic of Korea; and SK Hynix America Inc. and SK Hynix Memory Solutions Inc., both of San Jose, California, as respondents. The Office of Unfair Import Investigations (“OUII”) is also a party to the investigation. *Id.*

On May 31, 2017, the Commission issued notice of its determination not to review the ALJ’s ID (Order No. 21) terminating the investigation as to the ‘364 patent based on partial withdrawal of the complaint.

On November 14, 2017, the ALJ issued his final ID and recommended determination (RD) on remedy and bonding in one document. The ID finds, *inter alia*, that none of respondents’ accused products infringe any of the remaining asserted patents. The ID also finds that claims 1–3 and 5–7 of the ‘434 patent and claim 1 of the ‘501 patent are not invalid as anticipated in view of U.S. Patent Publication No. 2005/0257109 A1 (“Averbuj”).

On November 27, 2017, complainant and respondents petitioned for review of the final ID. On December 5, 2017, complainant, respondents, and OUII each filed a response in opposition to the opposing petition for review. On December 5, 2017, the Chairman granted respondents’ motion for leave to refile its petition for review out of time.

Having examined the record of this investigation, including the ID, the parties’ petitions for review, and the responses thereto, the Commission has determined to review-in-part the final ID. Specifically, the Commission has determined to review the ID’s finding that claims 1–3 and 5–7 of the ‘434 patent and claim 1 of the ‘501 patent are not anticipated by Averbuj. The Commission has determined not to review the remainder of the final ID.

On review, the Commission determines to take no position on the ID’s finding that claims 1–3 and 5–7 of the ‘434 patent and claim 1 of the ‘501 patent are not invalid as anticipated in view of Averbuj. *See Beloit Corp. v. Valmet Oy*, 742 F.2d 1421 (Fed. Cir. 1984). The Commission therefore affirms the ID’s finding of no violation of section 337 and terminates the investigation.

The authority for the Commission’s determination is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in part 210 of the Commission’s Rules of Practice and Procedure, 19 CFR part 210.

By order of the Commission.

Issued: January 16, 2018.

**Lisa R. Barton,**

*Secretary to the Commission.*

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## INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–591 and 731–TA–1399 (Preliminary)]

### Common Alloy Aluminum Sheet From China

#### Determinations

On the basis of the record<sup>1</sup> developed in the subject investigations, the United States International Trade Commission (“Commission”) determines, pursuant to the Tariff Act of 1930 (“the Act”), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of common alloy aluminum sheet from China, provided for in subheadings 7606.11.30, 7606.11.60, 7606.12.30, 7606.12.60, 7606.91.30, 7606.91.60, 7606.92.30, and 7606.92.60 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (“LTFV”) and to be subsidized by the government of China.

#### Commencement of Final Phase Investigations

Pursuant to section 207.18 of the Commission’s rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in section 207.21 of the Commission’s rules, upon notice from the U.S. Department of Commerce (“Commerce”) of affirmative preliminary determinations in the investigations under sections 703(b) or 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under sections 705(a) or 735(a) of the Act. Parties that filed entries of

appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

#### Background

These investigations were instituted, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)), in response to a notification of investigations self-initiated by the U.S. Department of Commerce deemed by the Commission as having been filed on December 1, 2017.

Notice of the institution of the Commission’s investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of December 8, 2017 (82 FR 58025). The conference was held in Washington, DC, on December 21, 2017, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission made these determinations pursuant to sections 703(a) and 733(a) of the Act (19 U.S.C. 1671b(a) and 1673b(a)). It completed and filed its determinations in these investigations on January 16, 2018. The views of the Commission are contained in USITC Publication 4757 (January 2018), entitled *Common Alloy Aluminum Sheet from China: Investigation Nos. 701–TA–591 and 731–TA–1399 (Preliminary)*.

By order of the Commission.

Issued: January 17, 2018.

**Lisa R. Barton,**

*Secretary to the Commission.*

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<sup>1</sup> The record is defined in sec. 207.2(f) of the Commission’s Rules of Practice and Procedure (19 CFR 207.2(f)).