

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

On April 16, 2020, Insteel Wire Products Company, Mount Airy, North Carolina, Sumiden Wire Products Corporation, Dickson, Tennessee, and Wire Mesh Corporation, Houston, Texas, filed petitions with the Commission and Commerce, alleging that an industry in the United States is materially injured or threatened with material injury by reason of subsidized imports of PC strand from Turkey and LTFV imports of PC strand from Argentina, Colombia, Egypt, Indonesia, Italy, Malaysia, Netherlands, Saudi Arabia, South Africa, Spain, Taiwan, Tunisia, Turkey, Ukraine, and UAE. Accordingly, effective April 16, 2020, the Commission instituted countervailing duty investigation No. 701-TA-646 and antidumping duty investigation Nos. 731-TA-1502-1516 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in

Africa, Spain, Taiwan, Tunisia, the Republic of Turkey, Ukraine, and the United Arab Emirates: Initiation of Less-Than-Fair-Value Investigations; 85 FR 28605 (May 13, 2020), and *Prestressed Concrete Steel Wire Strand From the Republic of Turkey: Initiation of Countervailing Duty Investigation*; 85 FR 28610 (May 13, 2020).

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 April 23, 2020 (85 FR 22751). In light of the restrictions on access to the Commission building due to the COVID-19 pandemic, the Commission conducted its conference through written questions, submissions of opening remarks and written testimony, written responses to questions, and postconference briefs. All persons who requested the opportunity were permitted to participate.

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 June 1, 2020. The views of the Commission are contained in USITC Publication 5062 (June 2020), entitled *Prestressed Concrete Steel Wire Strand from Argentina, Colombia, Egypt, Indonesia, Italy, Malaysia, Netherlands, Saudi Arabia, South Africa, Spain, Taiwan, Tunisia, Turkey, Ukraine, and United Arab Emirates: Investigation Nos. 701-TA-646 and 731-TA-1502-1516 (Preliminary)*.

By order of the Commission.

Issued: June 1, 2020.

Lisa Barton,

Secretary to the Commission.

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INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1138]

Certain LTE- and 3G-Compliant Cellular Communications Devices; Commission Determination To Review in Part a Final Initial Determination Finding No Violation of Section 337 and, on Review, To Affirm the Final Initial Determination's Finding of No Violation; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that, on February 18, 2020, the presiding administrative law judge ("ALJ") issued a final initial determination ("ID") finding no violation of section 337 in the above-captioned investigation. The Commission has determined to review the ID in part and, on review, has determined to affirm the final ID's

finding of no violation. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Richard P. Hadorn, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-3179. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal, telephone (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on October 19, 2018, based on a complaint filed by INVT SPE LLC ("INVT") of San Francisco, California. 83 FR 53105 (Oct. 19, 2018). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337) ("Section 337"), in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain LTE- and 3G-compliant cellular communications devices by reason of infringement of certain claims of U.S. Patent Nos. 7,339,949 ("the '949 patent"); 7,848,439 ("the '439 patent"); 6,760,590 ("the '590 patent"); 7,206,587 ("the '587 patent"); and 7,764,711 ("the '711 patent"). *Id.* The complaint further alleges that a domestic industry exists. *Id.* The notice of investigation named as respondents Apple Inc. ("Apple") of Cupertino, California; HTC Corporation of Taoyuan City, Taiwan; HTC America, Inc. of Seattle, Washington; ZTE Corporation of Guangdong, China; and ZTE (USA) Inc. of Richardson, Texas (collectively, the "Respondents"). *Id.* at 53106. The Office of Unfair Import Investigations ("OUII") is also named as a party. *Id.*

The Commission later terminated the investigation as to: (1) The '711 patent, Order No. 20 (Mar. 11, 2019), *unreviewed* by Comm'n Notice (Mar. 25, 2019); and (2) the '949 patent and claim 3 of the '439 patent, Order No. 46 (July 31, 2019), *unreviewed* by Comm'n Notice (Aug. 20, 2019). Remaining in the investigation are claims 3 and 4 of the 055A;590 patent, claim 4 of the 055A;587 patent, and claims 1 and 2 of the 055A;439 patent.

On February 18, 2020, the ALJ issued the final ID finding no violation of

Section 337. *See ID*. On March 2, 2020, INVT and OUII each filed petitions for review of certain findings in the ID and Respondents filed a contingent petition for review. On March 17, 2020, the parties filed responses to each other's petitions.

On April 3, 2020, the ALJ issued a Recommended Determination on the Public Interest, Remedy, and Bond ("RD") recommending that, should the Commission reverse her findings in the ID and find a violation of Section 337, then the Commission should issue a limited exclusion order, with a delayed implementation, and cease and desist orders against each Respondent. RD at 3. The RD also recommends imposing no bond during the period of Presidential review. *Id*.

On April 8, 2020, Apple filed a motion for sanctions against INVT ("Apple Motion"). On April 20, 2020, INVT filed an opposition to the motion. On April 29, 2020, Apple filed a motion for leave to file a reply in support of its motion.

On May 4, 2020, the Commission received a submission on the public interest from INVT. On May 5, 2020, the Commission received submissions on the public interest from the following non-parties: (1) ACT/The App Association; (2) Cisco Systems, Inc., Dell Technologies, Inc., Hewlett Packard Enterprise Company, HP Inc., and the High Tech Inventors Alliance; and (3) Computer & Communications Industry Association. On May 6, 2020, the Commission also received a submission on the public interest from non-party Fair Standards Alliance.

Having reviewed the record in this investigation, including the ALJ's orders and ID, as well as the parties' petitions and responses thereto, the Commission has determined to review the ID in part, as follows:

The Commission has determined to review and, on review, take no position on the ID's findings regarding the following issues: (1) Whether INVT has standing before the Commission to assert the '590, '587, and '439 patents; (2) whether INVT satisfied the economic prong of the domestic industry requirement; and (3) whether Respondents' affirmative defenses of (i) patent exhaustion, (ii) equitable estoppel and waiver, and (iii) unclean hands bar the requested relief.

The Commission has determined not to review the remaining findings in the final ID.

Accordingly, the Commission has determined to affirm the final ID's finding of no violation of section 337. The investigation is terminated.

The Commission has also determined to deny Apple's motion for sanctions because the information at issue was not disclosed to unauthorized persons nor was it placed on the public record. *See Apple Motion*, Exh. 13.

The Commission vote for these determinations took place on June 1, 2020.

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: June 1, 2020.

Lisa Barton,

Secretary to the Commission.

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INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Chemical Mechanical Planarization Slurries and Components Thereof*, DN 3457; the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov.

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be

obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Cabot Microelectronics Corporation on June 1, 2020. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain chemical mechanical planarization slurries and components thereof. The complaint names as respondents: DuPont de Nemours, Inc. of Wilmington, DE; Rohm and Haas Electronic Materials of Newark, DE; Rohm and Haas Electronic Materials CMP Asia Inc. (d/b/a Rohm and Haas Electronic Materials CMP Asia Inc., Taiwan Branch (U.S.A.)) of Taiwan; Rohm and Haas Electronic Materials Asia-Pacific Co., Ltd. of Taiwan; Rohm and Haas Electronic Materials K.K. of Japan; and Rohm and Haas Electronic Materials LLC of Marlborough, MA. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;