

requests to appear at the hearing, briefs, and other written submissions should be filed. However, due to COVID-19, the Commission postponed the hearing to a date to be determined (85 FR 21460, April 17, 2020). The Commission has rescheduled the public hearing as well as deadlines for requests to appear at the hearing, briefs, and other written submissions to the following dates. Please note the Secretary's Office will accept only electronic filings at this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, <https://edis.usitc.gov>). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. The scope of the investigation remains the same as published in the **Federal Register** on February 19, 2020.

**Public Hearing:** A public hearing in connection with this investigation will be held beginning at 9:30 a.m. on July 29, 2020. Information about the place and form of the hearing, including about how to participate in or view the hearing, will be posted on the Commission's website at ([https://usitc.gov/research\\_and\\_analysis/what\\_we\\_are\\_working\\_on.htm](https://usitc.gov/research_and_analysis/what_we_are_working_on.htm)). Once on that web page, scroll down to the entry for investigation No. 332-574, *Renewable Electricity: Potential Economic Effects of Increased Commitments in Massachusetts*, and click on the link to "hearing instructions." Interested parties should check the Commission's website periodically for updates.

Requests to appear at the public hearing should be filed with the Secretary no later than 5:15 p.m., July 1, 2020 in accordance with the requirements in the "Submissions" section below. All pre-hearing briefs and statements should be filed no later than 5:15 p.m., July 15, 2020; and all post-hearing briefs and statements should be filed no later than 5:15 p.m., August 7, 2020. In the event that, as of the close of business on July 14, 2020, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or nonparticipant should contact the Office of the Secretary at 202-205-2000 after July 15, 2020, for information concerning whether the hearing will be held.

**Written Submissions:** In lieu of or in addition to participating in the hearing, interested parties are invited to file written submissions concerning this investigation. All written submissions should be addressed to the Secretary, and should be received not later than 5:15 p.m., August 14, 2020. All written

submissions must conform to the provisions of section 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8), as temporarily amended by 85 FR 15798 (March 19, 2020). Under that rule waiver, the Office of the Secretary will accept only electronic filings at this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, <https://edis.usitc.gov>). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding electronic filing should contact the Office of the Secretary, Docket Services Division (202-205-1802), or consult the Commission's Handbook on Filing Procedures.

**Confidential Business Information.** Any submissions that contain confidential business information must also conform to the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the "confidential" or "non-confidential" version, and that the confidential business information is clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available for inspection by interested parties.

As requested by the Committee, the Commission will not include any confidential business information in the report that it sends to the Committee or makes available to the public. However, all information, including confidential business information, submitted in this investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel for cybersecurity purposes. The Commission will not otherwise disclose any confidential business information in a manner that would reveal the operations of the firm supplying the information.

**Summaries of Written Submissions:** The Commission intends to publish summaries of the positions of interested persons in an appendix to the report. Persons wishing to have a summary of their position included in the report

should include a summary with their written submission. The summary may not exceed 500 words, should be in a format that can be easily converted to MS Word, and should not include any confidential business information. The summary will be published as provided if it meets these requirements and is germane to the subject matter of the investigation. The Commission will identify the name of the organization furnishing the summary and will include a link to the Commission's Electronic Document Information System (EDIS) where the full written submission can be found.

By order of the Commission.

Issued: June 4, 2020.

**Lisa Barton,**

*Secretary to the Commission.*

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**BILLING CODE 7020-02-P**

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1151]

### **Certain Photovoltaic Cells and Products Containing Same; Notice of Commission Decision to Review in Part and, on Review, to Affirm With Modification an Initial Determination Granting Respondents' Motions for Summary Determination of Non-Infringement; Termination of the Investigation**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined to review in part and, on review, to affirm with modification an initial determination ("ID") (Order No. 40) of the presiding administrative law judge ("ALJ") granting respondents' motions for summary determination of non-infringement. The investigation is terminated.

#### **FOR FURTHER INFORMATION CONTACT:**

Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708-2310. 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](mailto: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 April 9, 2019, based on a complaint filed on behalf of Hanwha Q CELLS USA, Inc. of Dalton, Georgia and HQC-AMC<sup>1</sup> of Seoul, Republic of Korea (collectively, "Hanwha"). 84 FR 14134-35 (April 9, 2019). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 ("section 337"), based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain photovoltaic cells and products containing same by reason of infringement of certain claims of U.S. Patent No. 9,893,215. The complaint further alleges the existence of a domestic industry. The Commission's notice of investigation named the following respondents: JinkoSolar Holding Co., Ltd., c/o Conyers Trust Company (Cayman) Limited of Grand Cayman KY1-111, Cayman Islands; JinkoSolar (U.S.) Inc. of San Francisco, California; Jinko Solar (U.S.) Industries Inc. of San Francisco, California; Jinko Solar Co., Ltd. of Jiangxi, China; Zhejiang Jinko Solar Co., Ltd. of Haining City, China; Jinko Solar Technology Sdn. Bhd. of Persekutuan, Malaysia (collectively, "Jinko"); LONGi Solar Technology Co., Ltd. of Shaanxi, China; LONGi Green Energy Technology Co., Ltd. of Shaanxi, China; LONGi (H.K.) Trading Ltd. of Wanchai, Hong Kong; LONGi (Kuching) Sdn. Bhd. of Sarawak, Malaysia; Taizhou LONGi Solar Technology Ltd. of Jiangsu, China; Zhejiang LONGi Solar Technology Ltd. of Zhejiang, China; Hefei LONGi Solar Technology Ltd. of Anhui, China; LONGi Solar Technology (U.S.) Inc. of San Ramon, California (collectively, "LONGi"); and REC Solar Holdings AS of Oslo, Norway; REC Solar Pte. Ltd. of Tuas, Singapore; and REC Americas, LLC of San Mateo, California (collectively, "REC") (collectively, "Respondents"). The Office of Unfair Import Investigations ("OUII") is participating in the investigation.

On August 19, September 13, and September 18, 2019, LONGi, Jinko, and REC, respectively, filed a motion for summary determination on infringement. On September 26, 2019,

the ALJ issued a *Markman* Order (Order No. 24), construing certain claim terms in dispute. On October 10, 2019, the ALJ issued Order No. 26, which struck Hanwha's late-filed contentions concerning infringement under the doctrine of equivalents (DOE).

On April 10, 2020, the ALJ issued the subject ID (Order No. 40), granting Respondents' motions for summary determination of non-infringement. The subject ID finds no literal infringement by any of the accused products. Although the ALJ struck Hanwha's late-filed DOE contentions in Order No. 26, the ID also addresses the merits of the DOE contentions and finds no infringement by equivalents due to prosecution history estoppel.

On April 22, 2020, Hanwha filed a petition for review seeking review of the finding of no literal infringement. Hanwha does not seek review of the ALJ's decision to strike its DOE contentions. On May 5, 2020, Respondents and OUII each filed a response in opposition to Hanwha's petition.

Having reviewed the record including Order No. 24, the subject ID, the parties' briefing before the ALJ, and Hanwha's petition and responses thereto, the Commission has determined to review in part the subject ID (and underlying *Markman* Order). On review, the Commission has determined to affirm with modification the ID's grant of summary determination. Specifically, the Commission clarifies that the findings made on pages 24-26 of the ID relate to statements made by the patentee during prosecution. The ID notes that those findings support the determination that prosecution history estoppel precludes the application of the DOE with respect to the claim terms at issue. The Commission clarifies that these findings also support Order No. 24's claim construction of these terms, including a determination that prosecution disclaimer applies in construing these terms. As one example, the finding on page 25 of the ID that "the patentee 'made numerous and unambiguous' representations that the '215 patent claims solar cells hav[ing] a two-layer passivation stack, and no more'" lends support to a finding of prosecution disclaimer and Order No. 24's construction of the claim terms at issue. *See, e.g., Omega Eng'g, Inc. v. Raytek Corp.*, 334 F.3d 1314, 1323-24 (Fed. Cir. 2003); *Trading Technologies Intern., Inc. v. Open E Cry, LLC*, 728 F.3d 1309, 1322 (Fed. Cir. 2013) ("a single action during prosecution can engender both a prosecution disclaimer and prosecution history estoppel.") (emphasis in original).

The investigation is terminated with a finding of no violation of section 337.

The Commission vote for this determination took place on June 3, 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 3, 2020.

**Lisa Barton,**

*Secretary to the Commission.*

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

[Docket No. DEA-656]

#### **Bulk Manufacturer of Controlled Substances Application: Bulk Manufacturer of Marihuana: Honeoye Manufacturing**

**ACTION:** Notice of application.

**SUMMARY:** The Drug Enforcement Administration (DEA) is providing notice of an application it has received from an entity applying to be registered to manufacture in bulk basic class(es) of controlled substances listed in schedule I. DEA intends to evaluate this and other pending applications according to proposed regulations that, if finalized, would govern the program of growing marihuana for scientific and medical research under DEA registration.

**DATES:** Registered bulk manufacturers of the affected basic class(es), and applicants therefor, may file written comments on or objections to the issuance of the proposed registration on or before August 10, 2020.

**ADDRESSES:** Written comments should be sent to: Drug Enforcement Administration, Attention: DEA **Federal Register** Representative/DPW 8701 Morrisette Drive, Springfield, Virginia 22152. To ensure proper handling of comments, please reference Docket No. DEA-656 in all correspondence, including attachments.

**SUPPLEMENTARY INFORMATION:** The Controlled Substances Act (CSA) prohibits the cultivation and distribution of marihuana except by persons who are registered under the CSA to do so for lawful purposes. In accordance with the purposes specified in 21 CFR 1301.33(a), DEA is providing

<sup>1</sup> Complainant HQC-AMC was subsequently replaced by Hanwha Solutions Corporation. Order No. 38 (Jan. 30, 2020), *unreviewed by Comm'n* Notice (Mar. 2, 2020); *see also* 85 FR 13182-83 (Mar. 6, 2020).