

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-1574
(Preliminary)]

Superabsorbent Polymers From South Korea; Institution of Anti-Dumping Duty Investigation and Scheduling of Preliminary Phase Investigation

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the institution of an investigation and commencement of preliminary phase antidumping duty investigation No. 731-TA-1574 (Preliminary) pursuant to the Tariff Act of 1930 (“the Act”) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of superabsorbent polymers from South Korea, provided for in subheading 3906.90.50 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce (“Commerce”) extends the time for initiation, the Commission must reach a preliminary determination in antidumping duty investigations in 45 days, or in this case by December 17, 2021. The Commission’s views must be transmitted to Commerce within five business days thereafter, or by December 27, 2021.

DATES: November 2, 2021.

FOR FURTHER INFORMATION CONTACT: Charles Cummings (202-708-1666), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission’s TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<https://www.usitc.gov>). The public record for this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted, pursuant to section 733(a) of the Tariff Act of 1930 (19

U.S.C. 1673b(a)), in response to a petition filed on November 2, 2021, by the Ad Hoc Coalition of American SAP Producers, whose members include BASF Corporation, Florham Park, New Jersey; Evonik Superabsorber LLC, Greensboro, North Carolina; and Nippon Shokubai America Industries, Inc., Pasadena, Texas.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission’s Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

Participation in the investigation and public service list.—Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission’s rules, not later than seven days after publication of this notice in the **Federal Register**. 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 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 this investigation upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to § 207.7(a) of the Commission’s rules, the Secretary will make BPI gathered in this investigation available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigation under the APO issued in the investigation, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—In light of the restrictions on access to the Commission building due to the COVID-19 pandemic, the Commission is conducting the staff conference through video conferencing on Tuesday, November 23, 2021. Requests to appear at the conference should be emailed to preliminaryconferences@usitc.gov (DO NOT FILE ON EDIS) on or before Friday, November 19, 2021. Please provide an email address for each conference participant in the email.

Information on conference procedures will be provided separately and guidance on joining the video conference will be available on the Commission’s Daily Calendar. A nonparty who has testimony that may aid the Commission’s deliberations may request permission to participate by submitting a short statement.

Please note the Secretary’s Office will accept only electronic filings during 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.

Written submissions.—As provided in §§ 201.8 and 207.15 of the Commission’s rules, any person may submit to the Commission on or before November 29, 2021, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties shall file written testimony and supplementary material in connection with their presentation at the conference no later than noon on Monday, November 22, 2021. All written submissions must conform with the provisions of § 201.8 of the Commission’s rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission’s rules. The Commission’s *Handbook on Filing Procedures*, available on the Commission’s website at https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf, elaborates upon the Commission’s procedures with respect to filings.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Certification.—Pursuant to § 207.3 of the Commission’s rules, any person submitting information to the Commission in connection with this investigation must certify that the information is accurate and complete to the best of the submitter’s knowledge. In making the certification, the submitter will acknowledge that any information that it submits to the Commission during 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 related investigations or

reviews, 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, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.12 of the Commission's rules.

By order of the Commission.

Issued: November 4, 2021.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2021-24535 Filed 11-9-21; 8:45 am]

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INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1067 (Remand)]

Certain Road Milling Machines and Components Thereof; Issuance of a Modified Limited Exclusion Order and Two Modified Cease and Desist Orders; Termination of Remand Investigation

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that, following a remand from the U.S. Court of Appeals for the Federal Circuit ("Federal Circuit"), the U.S. International Trade Commission has determined to issue a modified limited exclusion order ("LEO") and modified cease and desist orders ("CDOs") directed against respondents Caterpillar Paving Products, Inc. and Caterpillar Inc., respectively, and their affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns. The Commission has terminated this investigation.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-3115. 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 <http://www.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 instituted this investigation on August 25, 2017, based on a complaint filed by Wirtgen America, Inc. of Antioch, Tennessee ("Wirtgen" or "Complainant"). 82 FR 40595-96 (Aug. 25, 2017). The complaint alleges a violation of section 337 by reason of infringement of certain claims of U.S. Patent Nos. 7,530,641 ("the '641 patent"); 7,828,309 ("the '309 patent"); 9,624,628 ("the '628 patent"); 9,644,340 ("the '340 patent"); and 9,656,530 ("the '530 patent"). The notice of investigation named as respondents Caterpillar Prodotti Stradali S.r.L. of Minerbio BO, Italy; Caterpillar Americas CV of Geneva, Switzerland; Caterpillar Paving Products, Inc. of Minneapolis, Minnesota; and Caterpillar Inc., of Peoria, Illinois (collectively, "Caterpillar," or "Respondents") and Caterpillar Bitelli SpA of Minerbio BO, Italy. The Commission's Office of Unfair Import Investigations was named as a party, but later withdrew from the investigation. Commission Investigative Staff's Notice of Non-Participation (Oct. 31, 2017).

On April 27, 2018, the Commission terminated the investigation as to the '628 patent based on withdrawal of the complaint allegations as to that patent. *See* Order No. 30 (Mar. 27, 2018), *unreviewed by* Notice (Apr. 27, 2018). On January 18, 2018, the Commission terminated respondent Caterpillar Bitelli SpA based on the withdrawal of the complaint as to that respondent. *See* Order No. 11 (Dec. 19, 2017), *unreviewed by* Notice (Jan. 18, 2018).

On October 1, 2018, the presiding administrative law judge ("ALJ") issued a final initial determination ("ID") finding that a violation of section 337 occurred in the importation into the United States, the sale for importation, or the sale within the United States after importation, of certain road milling machines and components thereof that infringed the asserted claims of the '309 and '530 patents, but found no violation with respect to the '641 and '340 patents. *See* ID, Cover.

On April 17, 2019, the Commission determined to review in part the final ID. *See* 84 FR 16882-84 (Apr. 23, 2019). In particular, the Commission determined to review the final ID's findings and analysis pertaining to the obviousness determinations with regard to claims 26, 35, and 36 of the '309 patent and, on review, found those

claims invalid as obvious under 35 U.S.C. 103. *Id.* at 16883. The Commission affirmed the final ID's finding that asserted claims 10 and 29 of the '309 Patent are not invalid. *Id.* at 16883. The Commission determined not to review any of the final ID's finding relating to the '340, '641, and '530 patents. *See id.*

On July 18, 2019, the Commission found a violation of section 337 as to the '309 and '530 patents and determined that the appropriate form of relief in this investigation is: (1) An LEO prohibiting the unlicensed entry of infringing road-milling machines and components thereof covered by one or more of claim 29 of the '309 patent or claims 2, 5, 16, or 23 of the '530 patent that are manufactured abroad for or on behalf of, or imported by or on behalf of, any of the Respondents or any of their affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns; and (2) CDOs directed against respondents Caterpillar Paving Products, Inc. and Caterpillar Inc., and their affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns. *See* 84 FR 35690-91 (Jul. 24, 2019). The Commission determined that the remedial orders "should include an exception for service and repair." *Comm'n Op.* at 14, 23 (July 18, 2019).

Both Complainant and Respondents timely appealed the Commission's final determination with the United States Court of Appeals for the Federal Circuit. On October 21, 2019, the Court consolidated the two appeals. *See Caterpillar v. ITC* (2019-1911, -2445), Court Order at 2 (October 21, 2019).

On March 15, 2021, the Court issued a non-precedential decision affirming the Commission's determination of a Section 337 violation with respect to the '530 and '309 patents. *Caterpillar Prodotti Stradali S.R.L. v. International Trade Commission*, 2021 WL 960759 (Fed. Cir. 2021). The Court also reversed and vacated the Commission's finding, adopted from the final ID, that Wirtgen failed to prove the knowledge required for inducement, and remanded as to the '641 patent for further proceedings. *Id.* at *5. The Court affirmed the Commission's finding, adopted from the final ID, that Wirtgen had not shown use in the United States of any imported PM300 Series machine in a way that would infringe the asserted claims of the '641 patent. *Id.* at *6. The Court's mandate issued on May 6, 2021, returning jurisdiction to the Commission.

Pursuant to the Court's remand, the Commission issued a Notice and Order