

*Subject Merchandise* imported from each *Subject Country*.

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country(ies)*, provide the following information on your firm's(s') operations on that product during calendar year 2012 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in each *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in each *Subject Country* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in each *Subject Country* after 2007, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product*

produced in the United States, *Subject Merchandise* produced in each *Subject Country*, and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry*; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

**Authority:** These reviews are being conducted under authority of Title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: May 29, 2013.

By order of the Commission.

**Lisa R. Barton,**

*Acting Secretary to the Commission.*

[FR Doc. 2013-13092 Filed 5-31-13; 8:45 am]

**BILLING CODE 7020-02-P**

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-746]

### Certain Automated Media Library Devices; Decision to Modify In Part a Remand Initial Determination; Termination of the Investigation With A Finding of No Violation

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

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined to modify in part the presiding administrative law judge's ("ALJ") remand initial determination ("RID") issued on March 26, 2013, finding no violation of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337 in the above-captioned investigation. The Commission has terminated the investigation.

**FOR FURTHER INFORMATION CONTACT:**

Cathy Chen, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205-2392. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's

electronic docket (EDIS) at <http://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:** This investigation was instituted on November 24, 2010, based upon a complaint filed by Overland Storage, Inc. of San Diego, California ("Overland") on October 19, 2010, and supplemented on November 9, 2010. 75 FR 71735 (Nov. 24, 2010). The complaint 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 U.S. Patent No. 6,328,766 ("the '766 patent") and U.S. Patent No. 6,353,581 ("the '581 patent"). The notice of investigation named as respondents BDT AG of Rottweil, Germany; BDT Solutions GmbH & Co. KG of Rottweil, Germany; BDT Automation Technology (Zhuhai FTZ), Co., Ltd. of Zhuhai Guandang, China; BDT de Mexico, S. de R.L. de C.V., of Jalisco, Mexico; BDT Products, Inc., of Irvine, California; Dell Inc. of Round Rock, Texas ("Dell"); and International Business Machines Corp. of Armonk, New York ("IBM"). The Office of Unfair Import Investigations was not named as a party.

On August 15, 2011, the ALJ granted Overland's motion for partial termination of the investigation with respect to claims 6 and 11 of the '766 patent and claims 8, 11 and 17-19 of the '581 patent (Order No. 26) (not reviewed by the Commission, Aug. 26, 2011). On September 2, 2011, the ALJ terminated BDT-Solutions GmbH & Co. KG from the investigation upon a motion for summary determination of no violation (Order No. 31) (not reviewed by the Commission, Sept. 21, 2011). The ALJ also terminated IBM and Dell based on a license agreement (Order No. 35) (affirmed by the Commission, Jan. 27, 2012). Accordingly, BDT AG, BDT Automation Technology (Zhuhai FTZ) Co., Ltd., BDT de México, S. de R.L. de C.V., and BDT Products, Inc. (collectively, "the BDT Respondents") remain as respondents in this investigation.

On June 20, 2012, the ALJ issued his final ID, finding no violation of section 337 by the BDT Respondents with respect to any of the asserted patent claims. On August 20, 2012, the Commission determined to review the final ID in part and requested briefing on several issues it determined to review, and on remedy, the public interest and bonding. 77 FR 51573 (August 24, 2012). On September 4,

2012, the parties filed written submissions on the issues under review, remedy, the public interest, and bonding. The Commission did not receive any non-party submissions.

On October 25, 2012, the Commission affirmed, with modified reasoning, the ALJ's finding that the BDT Respondents did not contributorily infringe the asserted claims of the '766 patent. In addition, the Commission reversed the ALJ's finding that the IBM documents related to the IBM 3570, 7331, 7336, and 3494 tape libraries do not qualify as "printed publications" under 35 U.S.C. 102, but affirmed the ALJ's finding that the IBM documents related to the IBM 3575 tape library do not qualify as "printed publications." With respect to the '581 patent, the Commission construed the limitation "linear array" as recited in claims 1, 2, 5, 6, 7, 9, 10, 12, and 16 to mean "media element storage locations [or cells] arranged in one or more straight lines." The Commission affirmed, with modified reasoning, the ALJ's finding of noninfringement of the '581 patent. The Commission also affirmed, with modified reasoning, the ALJ's finding that the '581 patent was not shown to be invalid (except for claim 15). In addition, the Commission reversed the ALJ's finding that Overland had failed to satisfy the technical prong of the domestic industry requirement. Finally, the Commission affirmed, with modified reasoning, the ALJ's rejection of the BDT Respondents' patent exhaustion defense with respect to both asserted patents.

The Commission also determined to remand the investigation to the ALJ with respect to certain issues regarding both asserted patents, and to extend the target date for completion of the investigation. 77 FR 65907 (Oct. 31, 2012). Specifically, the Commission remanded the investigation to the ALJ to consider whether the IBM documents that qualify as prior art anticipate or, in combination with their associated IBM tape library and/or U.S. Patent No. 6,434,090, render obvious the asserted claims of the '766 patent. The Commission also remanded the investigation to the ALJ to consider whether Overland has satisfied the economic prong of the domestic industry requirement for the '581 patent.

On November 8, 2012, Overland filed a petition for reconsideration of the Commission's determination that the BDT Respondents did not infringe claims 10, 12, and 16 of the '581 patent, which the BDT Respondents opposed. On December 11, 2012, the Commission granted Overland's petition for

reconsideration in view of the Commission's determination that the accused products met its modified construction of the term "linear array." A revised Commission Opinion issued on January 9, 2013 clarifying that the Commission affirms, with modified reasoning, the ALJ's finding of noninfringement of claims 1–2, 5–7 and 9 of the '581 patent. In addition to the issues remanded to the ALJ in the Commission's Order dated October 25, 2012, the Commission further remanded the investigation to the ALJ to make all findings regarding infringement of claims 10, 12, and 16 based on the existing record.

On November 13, 2012, the BDT Respondents filed a motion for leave to file out of time a petition for reconsideration of the Commission's determination that the BDT Respondents waived consideration of certain testimonies in support of a finding of invalidity of the '581 patent. The Commission found good and sufficient reason to waive the 14-day limit of rule 210.47 and granted the BDT Respondents' motion for leave to file out of time a petition for reconsideration. However, the Commission determined that the petition did not comply with 19 CFR 210.47 because it was not confined to "new questions" raised by the Commission determination and for which the BDT Respondents had no opportunity to submit arguments.

On remand, the ALJ extended the target date for completion of the investigation to June 25, 2013. The Commission determined not to review the ID setting the new target date. Notice (Jan. 9, 2013). On March 26, 2013, the ALJ issued his RID in this investigation. The ALJ found no violation of section 337 by the BDT Respondents in connection with the asserted patents. Specifically, the ALJ found that the accused products do not directly infringe claims 10, 12 and 16 of the '581 patent because they do not meet the limitations: "a linear array of media element cells in fixed position with respect to said housing"; "a linear array of media element cells in fixed relative position"; "a moveable cell coupled to said end of said magazine adjacent to said opening"; and "at least one movable cell coupled to one end of said linear array." Having found no direct infringement, the ALJ concluded that the BDT Respondents also do not induce or contributorily infringe claims 10, 12 and 16 of the '581 patent. The ALJ further found that the economic prong of the domestic industry requirement has been satisfied for the '581 patent under 19 U.S.C. 1337(a)(3)(A), (B), and (C). With respect

to the '766 patent, the ALJ found that claims 1–3 and 7–9 are invalid under 35 U.S.C. 102 as anticipated by the 3494 Operator Guide, but that the claims are not invalid under 35 U.S.C. 103 for obviousness.

On April 8, 2013, Overland petitioned for review of certain aspects of the RID. In particular, Overland requested that the Commission review and reverse the RID's finding of no infringement of claims 10, 12 and 16 of the '581 patent and the RID's finding that the asserted claims of the '766 patent are invalid as anticipated by the 3494 Operator Guide. The BDT Respondents did not file a petition for review, but did file a response to Overland's petition for review on April 15, 2013.

On May 10, 2013, the Commission determined to review in part the RID. Specifically, the Commission determined to review the RID's finding that Overland did not show by a preponderance of the evidence that the accused products infringe claim 16 of the '581 patent. The Commission also determined to review the RID's finding that the asserted claims of the '766 patent are invalid as anticipated by the 3494 Operator Guide. The Commission determined not to review the remaining issues decided in the RID. Pursuant to the Commission Orders of October 25, 2012 and December 11, 2012, the ALJ's determinations on the unreviewed issues became the Commission's final determinations.

On review, the Commission has determined to affirm, based on the Commission's construction of the limitation "cells in fixed relative position," the RID's finding that Overland has not shown by a preponderance of the evidence that the accused products infringe claim 16 of the '581 patent. The Commission has also determined to affirm the RID's finding that the BDT Respondents have shown by clear and convincing evidence that the 3494 Operator Guide anticipates the asserted claims of the '766 patent. A Commission opinion on remand will be issued concurrently with this notice.

The Commission has terminated this 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).

Issued: May 28, 2013.

By order of the Commission.

**William R. Bishop,**

*Supervisory Hearings and Meetings Officer.*

[FR Doc. 2013-12980 Filed 5-31-13; 8:45 am]

BILLING CODE 7020-02-P

## INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701-TA-447 and 731-TA-1116 (Review)]

### Circular Welded Carbon-Quality Steel Pipe From China; Institution of Five- Year Reviews

**AGENCY:** United States International  
Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping and countervailing duty orders on circular welded carbon-quality steel pipe from China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;<sup>1</sup> to be assured of consideration, the deadline for responses is July 3, 2013. Comments on the adequacy of responses may be filed with the Commission by August 16, 2013. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

**DATES:** *Effective Date:* June 3, 2013.

**FOR FURTHER INFORMATION CONTACT:**

Mary Messer (202-205-3193), 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

<sup>1</sup> No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117-0016/USITC No. 13-5-286, expiration date June 30, 2014. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

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 (<http://www.usitc.gov>). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

**SUPPLEMENTARY INFORMATION:**

**Background.**—On July 22, 2008, the Department of Commerce (“Commerce”) issued antidumping and countervailing duty orders on imports of circular welded carbon-quality steel pipe from China (73 FR 42545-42549). The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

**Definitions.**—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The *Subject Country* in these reviews is China.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise*. In its original determinations, the Commission defined a single *Domestic Like Product* consisting of circular welded carbon-quality steel pipe coextensive with the scope of the investigations.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product*, or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission defined the single *Domestic Industry* consisting of all known domestic producers of circular welded carbon-quality steel pipe.

(5) The *Order Date* is the date that the antidumping and countervailing duty orders under review became effective. In these reviews, the *Order Date* is July 22, 2008.

(6) An *Importer* is any person or firm engaged, either directly or through a

parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

**Participation in the reviews and public service list.**—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official has advised that a five-year review is not considered the “same particular matter” as the corresponding underlying original investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202-205-3088.

**Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.**—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties