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**SUPPLEMENTARY INFORMATION:** Section 337 of the Tariff Act of 1930 provides that, if the Commission finds a violation, it shall exclude the articles concerned from the United States:

unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry.

19 U.S.C. 1337(d)(1). A similar provision applies to cease and desist orders. 19 U.S.C. 1337(f)(1).

The Commission is soliciting submissions on public interest issues raised by the recommended relief should the Commission find a violation, specifically: (1) A limited exclusion order directed to certain in vitro fertilization products, components thereof, and products containing the same imported, sold for importation, and/or sold after importation by defaulting respondents Fast IVF of Scottsdale, Arizona and Hermes Ezcanesi of Istanbul, Turkey; and (2) a cease and desist order directed against Fast IVF. Parties are to file public interest submissions pursuant to 19 CFR 210.50(a)(4).

The Commission is interested in further development of the record on the public interest in this investigation. Accordingly, members of the public are invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the ALJ's Recommended Determination on Remedy and Bonding issued in this investigation on December 15, 2021. Comments should address whether issuance of the recommended remedial orders in this investigation, should the Commission find a violation, 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 recommended remedial orders are used in the United States;

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

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

(iv) indicate whether complainants, complainants' licensees, and/or third-party suppliers have the capacity to replace the volume of articles potentially subject to the recommended orders within a commercially reasonable time; and

(v) explain how the recommended orders would impact consumers in the United States.

Written submissions must be filed no later than by close of business on January 14, 2022.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. The Commission's paper filing requirements in 19 CFR 210.4(f) are currently waived. 85 FR 15798 (March 19, 2020). Submissions should refer to the investigation number ("Inv. No. 337-TA-1196") in a prominent place on the cover page and/or the first page. (See *Handbook for Electronic Filing Procedures*, [https://www.usitc.gov/documents/handbook\\_on\\_filing\\_procedures.pdf](https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf)). Persons with questions regarding filing should contact the Secretary (202-205-2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment by marking each document with a header indicating that the document contains confidential information. This marking will be deemed to satisfy the request procedure set forth in Rules 201.6(b) and 210.5(e)(2) (19 CFR 201.6(b) & 210.5(e)(2)). Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of 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, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection on EDIS.

This action is taken under the authority of 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: December 16, 2021.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2021-27654 Filed 12-21-21; 8:45 am]

**BILLING CODE 7020-02-P**

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1204]

### Certain Chemical Mechanical Planarization Slurries and Components Thereof Notice of the Commission's Final Determination Finding a Violation of Section 337; Issuance of a Limited Exclusion Order and Cease and Desist Orders; 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 that there is a violation of section 337 in the above-captioned investigation. The Commission has further determined to issue a limited exclusion order and cease and desist orders and to set a bond rate on the entered value of covered products imported or sold during the period of Presidential review.

**FOR FURTHER INFORMATION CONTACT:** Panyin A. Hughes, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-3042. 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 on (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** On July 7, 2020, the Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based on a complaint filed by Cabot Microelectronics Corporation ("CMC") of Aurora, Illinois. 85 FR 40685-86 (July 7, 2020). The complaint, as supplemented, alleged violations of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain chemical mechanical planarization ("CMP") slurries and components thereof by reason of infringement of one or more of claims 1, 3-6, 10, 11, 13, 14, 18-20, 24, 26-29, 31, 35-37, and 39-44 of U.S. Patent No. 9,499,721 ("the '721 patent"). *Id.* at 40685. The Commission's notice of investigation named as respondents DuPont de Nemours, Inc. of Wilmington, Delaware; Rohm and Haas Electronic Materials CMP, LLC of Newark, Delaware; 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 Taoyuan City, Taiwan; Rohm and Haas Electronic Materials Asia-Pacific Co., Ltd. of Miaoli, Taiwan; Rohm and Haas Electronic Materials K.K. of Tokyo, Japan; and Rohm and Haas Electronic Materials LLC of Marlborough, Massachusetts (collectively, "Respondents" or "DuPont"). *Id.* at 40686. The Office of Unfair Import Investigations ("OUII") is participating in this investigation. *Id.*

On October 1, 2020, the administrative law judge ("ALJ") issued an initial determination granting CMC's unopposed motion to amend the complaint and notice of investigation to assert infringement of claims 17 and 46 of the '721 patent. Order No. 7 (Oct. 1, 2020), *unreviewed by Notice* (Oct. 16, 2020).

On November 10, 2020, the ALJ issued an initial determination granting CMC's unopposed motion to amend the complaint and notice of investigation to change the name of Complainant from Cabot Microelectronics Corporation to CMC Materials, Inc. Order No. 8 (Nov. 10, 2020), *unreviewed by Notice* (Nov. 24, 2020).

On January 26, 2021, the ALJ issued an initial determination granting CMC's unopposed motion to amend the complaint and notice of investigation to reflect the conversion of Rohm and Haas

Electronic Materials, Inc. to Rohm and Haas Electronic Materials CMP, LLC. Order No. 13 (Jan. 26, 2021), *unreviewed by Notice* (Feb. 11, 2021).

On January 26, 2021, the ALJ issued an initial determination granting CMC's unopposed motion to terminate the investigation as to claim 5 of the '721 patent. Order No. 12 (Jan. 26, 2021), *unreviewed by Notice* (Feb. 16, 2021).

On July 8, 2021, the ALJ issued the subject final initial determination ("ID") finding a violation of section 337. The ID found that the parties do not contest personal jurisdiction, and that the Commission has *in rem* jurisdiction over the accused products. ID at 11. The ID further found that the importation requirement under 19 U.S.C.

1337(a)(1)(B) is satisfied. ID at 11-30. The ID also found that CMC established the existence of a domestic industry that practices the '721 patent. ID at 144-169, 297-314. The ID concluded that CMC proved that Respondent's accused products infringe the asserted claims of the '721 patent and that Respondents failed to show that the asserted claims are invalid. ID at 87-144. The ID included the ALJ's recommended determination on remedy and bonding ("RD"). The RD recommended that, should the Commission find a violation, issuance of a limited exclusion order and cease and desist orders would be appropriate. ID/RD at 316-331. The RD also recommended imposing a bond in the amount of one hundred percent of the entered value for covered products imported during the period of Presidential review. ID at 331.

On July 15, 2021, OUII filed a motion to extend the time for the parties to file petitions for review from July 20, 2021 (with responses due July 28, 2021) to July 29, 2021 (with responses due August 12, 2021). On July 16, 2021, the Chair granted the motion.

On July 29, 2021, Respondents and OUII filed separate petitions for review of the ID. On August 12, 2021, CMC submitted responses to the petitions filed by DuPont and OUII, and OUII submitted a response to DuPont's petition.

On August 30, 2021, the Commission extended the due date for determining whether to review the final ID from September 8, 2021, to September 22, 2021.

On September 22, 2021, the Commission determined to review the ID in part. 86 FR 53674-76 (Sept. 28, 2021). Specifically, the Commission determined to review the ID's findings on importation, infringement, and domestic industry and requested briefing on the latter issue. *Id.* The Commission also requested briefing

from the parties, interested government agencies, and interested persons on the issues of on remedy, the public interest, and bonding. On October 6, 2021, the parties submitted their opening briefs. On October 13, 2021, the parties filed their reply briefs.

On October 6, 2021, non-Party, Intel Corporation ("Intel") filed a statement on the public interest in response to the Commission's notice. On October 8, 2021, Intel sent a letter to the Chair stating that it is in possession of a document that bears directly on the public interest impact of CMC's requested remedy ("PI Document") and that it would be in a position to provide the document if ordered to do so. On October 20, 2021, DuPont filed a response requesting that the Commission order Intel to produce the PI document. On October 21, 2021, CMC filed a response in opposition.

On November 2, 2021, the Commission issued a notice requesting additional public interest information from Intel and directing Intel to produce the PI Document. On November 9, 2021, Intel submitted a response to the Commission notice. On November 15, 2021, the parties filed replies to Intel's Submission.

Upon review of the parties' submissions, the ID, the RD, evidence of record, and public interest filings, the Commission has determined that Respondents violated section 337 by reason of importation and sale of articles that infringe asserted claims 1, 3-6, 10, 11, 13, 14, 18-20, 24, 26-29, 31, 35-37, and 39-44 of the '721 patent. The Commission has further determined to issue a limited exclusion order prohibiting further importation of infringing products and cease and desist orders against the domestic respondents. The Commission, however, has determined that the public interest factors warrant an exemption from the remedial orders for up to one year for entities currently using the infringing products in an ongoing semiconductor chip fabrication development project pursuant to terms stated in the concurrently issued opinion and orders. The Commission has determined to set a bond in the amount of one hundred percent (100%) of entered value for covered products imported or sold during the period of Presidential review.

The Commission's vote on this determination took place on December 16, 2021.

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: December 16, 2021.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2021-27701 Filed 12-21-21; 8:45 am]

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## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1213]

### Certain Light-Emitting Diode Products, Fixtures, and Components Thereof Notice of a Commission Determination Finding a Violation of Section 337; Issuance of Limited Exclusion Order and Cease and Desist Order; Termination of the Investigation

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

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission (“the Commission”) has determined to affirm a final initial determination (“ID”) of the presiding administrative law judge (“ALJ”) finding a violation of section 337 by the accused products of respondent RAB Lighting Inc. (“RAB”) of Northvale, New Jersey. The Commission has issued a limited exclusion order (“LEO”) directed against infringing light-emitting diode products, fixtures, and components thereof of RAB and a cease and desist order (“CDO”) directed against RAB. 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 August 17, 2020, based on a complaint filed on behalf of Ideal Industries Lighting LLC d/b/a Cree

Lighting (“Cree”) of Durham, North Carolina. 85 FR 50047-48 (Aug. 17, 2020). The complaint, as supplemented, alleges violations 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 light-emitting diode products, fixtures, and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 8,403,531 (“the ‘531 patent”); 8,596,819 (“the ‘819 patent”); 8,777,449 (“the ‘449 patent”); 9,261,270 (“the ‘270 patent”); and 9,476,570 (“the ‘570 patent”). The complaint further alleges the existence of a domestic industry. The Commission’s notice of investigation (“NOI”) named RAB as the sole respondent. The Office of Unfair Import Investigations is not participating in the investigation. The Commission previously terminated the following claims from the investigation: (1) Claims 1-9 and 11-14 of the ‘449 patent; (2) claims 3-12 of the ‘270 patent; claims 17, 21, and 24 of the ‘531 patent; and (3) claims 2, 6-9, and 11-24 of the ‘570 patent. *See* Order No. 13 (Jan. 8, 2021), *unreviewed by Comm’n Notice* (Jan. 26, 2021); Order No. 25 (May 5, 2021), *unreviewed by Comm’n Notice* (May 21, 2021). The Commission also amended the complaint and NOI to add asserted claim 11 of the ‘531 patent. *See* Order No. 13 (Jan. 8, 2021), *unreviewed by Comm’n Notice* (Jan. 26, 2021).

On August 17, 2021, the ALJ issued the final ID finding a violation of section 337 based on infringement of the asserted claims of the ‘270 and ‘570 patents. The ID finds no violation of section 337 with respect to the ‘531 and ‘819 patents on the basis of patent-ineligible subject matter, lack of enablement, and lack of written description. The ID also finds no violation with respect to the ‘449 patent based on findings that the accused products do not infringe asserted claim 10; the asserted claims are invalid for lack of enablement; and the domestic industry products do not practice one or more claims. The ALJ recommended, should the Commission find a violation, issuing a limited exclusion order directed to RAB’s infringing products and a cease and desist order directed to RAB and requiring a bond in the amount of five (5) percent for importation of infringing articles during the period of Presidential review.

On October 25, 2021, the Commission determined to review the final ID in part. Specifically, the Commission determined to review the ID’s finding that: (1) The asserted claims of the ‘531

patent and ‘819 patent are invalid due to patent-ineligible subject matter, lack of enablement, and lack of written description and (2) the ‘819 patent is prior art to claims 1, 10-12, and 26 of the ‘531 patent. The Commission determined not to review the remainder of the ID, including the ID’s finding of a violation with respect to the ‘270 and ‘570 patents. 86 FR 60071-72 (Oct. 29, 2021). The Commission also requested written submissions from the parties, interested government agencies, and other interested persons on the issues of remedy, the public interest, and bonding. *Id.*

On November 8 and 15, 2021, Cree and RAB each filed a brief and a reply brief, respectively, on remedy, the public interest, and bonding. The Commission received no other submissions.

Having reviewed the record in this investigation, including the final ID and the parties’ briefing, the Commission has determined, on review, to: (1) Affirm the ID’s finding that the asserted claims of the ‘531 and ‘819 patents are patent ineligible; (2) take no position on the ID’s finding that the asserted claims of the ‘531 and ‘819 patents are invalid due to lack of enablement and lack of written description; and (3) take no position on the ID’s finding that the ‘819 patent is prior art to claims 1, 10-12, and 26 of the ‘531 patent. Accordingly, the Commission affirms the ID’s finding of no violation as to the ‘531 and ‘819 patents.

The Commission has adopted the final ID’s finding of a violation of section 337 as to the ‘270 and ‘570 patents. The Commission has determined that the appropriate form of relief is an LEO prohibiting the entry of unlicensed light-emitting diode products, fixtures, and components thereof that infringe one or more of claims 1-2 of the ‘270 patent and claims 1, 3-5, and 10 of the ‘570 patent, and that are manufactured abroad by or on behalf of, or imported by or on behalf of RAB, or any of its affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns (collectively, “the covered articles”). Appropriate relief also includes a CDO prohibiting RAB from conducting any of the following activities in the United States: Importing, selling, marketing, advertising, distributing, offering for sale, transferring (except for exportation), and soliciting U.S. agents or distributors for light-emitting diode products, fixtures, and components thereof that infringe one or more of claims 1-2 of the ‘270 patent and claims 1, 3-5, and 10 of the ‘570 patent.