UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of **CERTAIN ELECTRICAL CONNECTORS AND CAGES, COMPONENTS THEREOF, AND PRODUCTS CONTAINING THE SAME**	**Investigation No. 337-TA-1241**

NOTICE OF A COMMISSION DETERMINATION TO REVIEW IN PART A FINAL INITIAL DETERMINATION; REQUEST FOR WRITTEN SUBMISSIONS ON CERTAIN ISSUES UNDER REVIEW AND ON REMEDY, THE PUBLIC INTEREST, AND BONDING; EXTENSION OF THE TARGET DATE

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission ("Commission") has determined to review in part a final initial determination ("ID") of the presiding administrative law judge ("ALJ"). The Commission requests written submissions from the parties on certain issues under review and submissions from the parties, interested government agencies, and other interested persons on the issues of remedy, the public interest, and bonding, under the schedule set forth below. The Commission also extends the target date to September 8, 2022.

FOR FURTHER INFORMATION CONTACT: Amanda P. Fisherow, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW, Washington, D.C. 20436, telephone (202) 205-2737. 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 on (202) 205-1810.

SUPPLEMENTARY INFORMATION: On January 26, 2021, 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 Amphenol Corp. of Wallingford, Connecticut ("Amphenol," or "Complainant"). 86 FR 7104-05 (Jan. 26, 2021). The complaint alleged a violation of section 337 in the importation into the United States, the sale for importation, or the sale within the

United States after importation of electrical connectors and cages, components thereof, and products containing the same by reason of infringement of certain claims of U.S. Patent Nos. 7,371,117 ("the '117 patent"); 8,371,875 ("the '875 patent"); 8,864,521 ("the '521 Patent"); 9,705,255 ("the '255 patent"); and 10,381,767 ("the '767 patent"). The complaint also alleged the existence of a domestic industry. The notice of investigation named as respondents: Luxshare Precision Industry Co., Ltd. and Dongguan Luxshare Precision Industry Co. Ltd., both of Dongguan City, China; Luxshare Precision Limited (HK) of Fotan, Hong Kong; and Luxshare-ICT Inc. of Milpitas, California (collectively, "Luxshare," or "Respondents"). *Id*. at 7104. The Commission's Office of Unfair Import Investigations is not named as a party in this investigation. *Id*.

Subsequently, the ALJ granted Complainant's motion for partial termination of the investigation by withdrawal of the '875 and the '521 patents, and claims 2, 14, 17-19, and 25-27 of the '117 patent; claims 1-3, 5-8, and 18 of the '255 patent; and claims 2-3, 7, 14, 20-22, 30, and 32 of the '767 patent. *See* Order No. 29 (Oct. 13, 2021), *unreviewed by* Comm'n Notice (Nov. 3, 2021). The ALJ also granted in part and denied in part Complainant's motion for summary determination that it has satisfied the importation requirement. *See* Order No. 34 (Oct. 28, 2021), *unreviewed by* Comm'n Notice (Nov. 29, 2021). The ALJ also granted in part Luxshare's motion for summary determination that the importation requirement has not been met for certain products. *See* Order No. 35. On November 29, 2021, the Commission determined to review that determination. Comm'n Notice (Nov. 29, 2021).

On March 11, 2022, the ALJ issued the final ID. On March 25, 2022, Complainant petitioned for review of the final ID. On April 4, 2022, Respondents filed a response.

Having reviewed the record of the investigation, including the final ID, the parties' submissions to the ALJ and the Commission, the Commission has determined to review the ID in part. Specifically, the Commission has determined to review the ID's findings on (1) importation, including any findings impacted by the determination on importation; (2) the Redesigned Products; (3) infringement for claim 9 of the '117 patent; (4) the construction of the term "contact tail adapted for attachment to the printed circuit board that is perpendicular to the … printed circuit board" of the '767 patent; (5) infringement analysis for claims 1, 4-6, 9-13, 15-17, 19, and 23 of the '767 patent; (6) the technical prong findings for the '767 patent; (7) obviousness for the '767 patent; and (8) the economic prong of domestic industry analysis.

In connection with its review, the Commission requests responses to the following question. The parties are requested to brief their positions with reference to the applicable law and the existing evidentiary record.

(1) Please address whether Complainant waived the argument that the QSFP 2x1 SMT products are representative of the QSFP 2x1 Press-fit products. Please include citations to the record before the ALJ.

The parties are invited to brief only the discrete question identified above. The parties are not to brief other issues on review, which are adequately presented in the parties' existing filings.

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In connection with the final disposition of this investigation, the statute authorizes issuance of, *inter alia,* (1) an exclusion order that could result in the exclusion of the subject articles from entry into the United States; and/or (2) cease and desist orders that could result in the respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843, Comm'n Op. at 7-10 (Dec. 1994).

The statute requires the Commission to consider the effects of that remedy upon the public interest. The public interest factors the Commission will consider include the effect that an exclusion order and cease and desist orders would have on: (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve, disapprove, or take no action on the Commission's determination. *See* Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

WRITTEN SUBMISSIONS: The parties to the investigation are requested to file written submissions in response to the briefing question identified in this notice. Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the recommended determination by the ALJ on remedy and bonding.

In its initial submission, Complainant is also requested to identify the remedy sought and is requested to submit proposed remedial orders for the Commission's consideration. Complainant is further requested to provide the HTSUS subheadings under which the accused products are imported, and to supply the identification information for all known importers of the products at issue in this investigation. The initial written submissions and proposed remedial orders must be filed no later than close of business on July 6, 2022. Reply submissions must be filed no later than the close of business on July 14, 2022. No further submissions on these issues will be permitted unless otherwise ordered by the Commission. Opening submissions are limited to 25 pages. Reply submissions are limited to 20 pages. No further submissions on any of these issues will be permitted unless otherwise ordered by the Commission.

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-1241) 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*). Persons with questions regarding filing should contact the Secretary, (202) 205-2000.

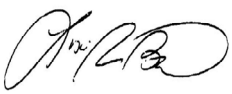
Any person desiring to submit a document to the Commission in confidence must request confidential treatment by marking each document with a header indicating that the document contains confidential information. This marking will be deemed to satisfy the request procedure set forth in Rules 201.6(b) 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. Any non-party wishing to submit comments containing confidential information must serve those comments on the parties to the investigation pursuant to the applicable Administrative Protective Order. A redacted non-confidential version of the document must also be filed with the Commission and served on any parties to the investigation within two business days of 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.

The Commission has also determined to extend the target date for completion of the investigation to September 8, 2022.

The Commission vote for this determination took place on June 21, 2022.

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.



Lisa R. Barton
Secretary to the Commission

Issued: June 21, 2022

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