

**UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC**

In the Matter of

**CERTAIN CHEMICAL MECHANICAL
PLANARIZATION SLURRIES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-1204

LIMITED EXCLUSION ORDER

The United States International Trade Commission (“Commission”) has determined that there is a violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, in the unlawful importation, sale for importation, or sale within the United States after importation by Respondents DuPont de Nemours, Inc.; Rohm and Haas Electronic Materials CMP Inc.; Rohm and Haas Electronic Materials CMP Asia Inc. (d/b/a Rohm and Haas Electronic Materials CMP Asia Inc., Taiwan Branch (U.S.A.)); Rohm and Haas Electronic Materials Asia-Pacific Co., Ltd.; Rohm and Haas Electronic Materials K.K.; Rohm and Haas Electronic Materials LLC (“DuPont” or “Respondents”) of certain chemical mechanical planarization slurries and colloidal silica abrasive particles that infringe 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”).

Having reviewed the record in this investigation, including the written submissions of the parties, the Commission has made its determination on the issues of remedy, public interest, and bonding. The Commission has determined that an appropriate form of relief includes a limited exclusion order prohibiting the unlicensed entry of chemical mechanical planarization slurries and colloidal silica abrasive particles manufactured abroad by or on behalf of, or imported by or on behalf of, Respondent or its affiliated companies, parents, subsidiaries, licensees, or other related business entities, or their successors or assigns.

The Commission has also determined that the public interest factors enumerated in 19 U.S.C. § 1337(d) warrant an exemption for up to one year for entities currently using the infringing products in an ongoing semiconductor chip fabrication development project, and that the bond during the period of Presidential review shall be in the amount of one hundred percent (100%) of the entered value of the covered articles.

Accordingly, the Commission hereby **ORDERS** that:

1. Chemical mechanical planarization slurries and colloidal silica abrasive particles that infringe one or more of 1, 3–6, 10, 11, 13, 14, 18–20, 24, 26–29, 31, 35–37, and 39–44 of the '721 patent that are manufactured abroad by or on behalf of, or imported by or on behalf of, Respondents, or their affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns, are excluded from entry for consumption into the United States, entry for consumption from a foreign trade zone, or withdrawal from a warehouse for consumption, for the remaining term of the patent, except under license of, or with the permission of, the patent owner or as provided by law.
2. The chemical mechanical planarization slurries and colloidal silica abrasive particles that are subject to this Order (“covered articles”) are as follows: chemical mechanical planarization slurries, which include colloidal silica abrasive particles, and colloidal silica abrasive particles.
3. Notwithstanding paragraph 1 of this Order, covered articles are entitled to entry into the United States for consumption, entry for consumption from a foreign-trade zone, or withdrawal from a warehouse for consumption under bond in the amount of one hundred percent (100%) of the entered value of the products, pursuant to subsection

(j) of section 337 (19 U.S.C. § 1337(j)), and the Presidential Memorandum for the United States Trade Representative of July 21, 2005 (70 *Fed. Reg.* 43,251), from the day after this Order is received by the United States Trade Representative until such time as the United States Trade Representative notifies the Commission that this Order is approved or disapproved but, in any event, not later than sixty (60) days after the date of receipt of this Order. All entries of covered articles made pursuant to this paragraph are to be reported to U.S. Customs and Border Protection (“CBP”), in advance of the date of entry, pursuant to the procedures CBP establishes.

4. Notwithstanding paragraph 1 of this Order, for up to one year from the date of this Order, covered articles are entitled to entry for consumption into the United States, entry for consumption from a foreign trade zone, entry into a bonded warehouse or foreign trade zone, or withdrawal from a warehouse for consumption where the covered articles are being used by entities currently using the covered products in an ongoing semiconductor chip fabrication development project and have a documented need¹ to continue receiving the covered products. All entries or withdrawals of articles made pursuant to this paragraph are to be reported to CBP, in advance of the date of the entry, pursuant to procedures CBP establishes.
5. At the discretion of CBP and pursuant to the procedures it establishes, persons seeking to import articles that are potentially subject to this Order may be required to certify that they are familiar with the terms of this Order, that they have made appropriate inquiry, and thereupon state that, to the best of their knowledge and belief, the products being imported

¹ This “documented need” is to be satisfied by the questionnaire attached to this Order, as discussed at pages 53-54 of the Commission Opinion issued in this investigation on the date of this Order.

are not excluded from entry under paragraph 1 of this Order. At its discretion, CBP may require persons who have provided the certification described in this paragraph to furnish such records or analyses to substantiate the certification.

5. In accordance with 19 U.S.C. § 1337 (l), the provisions of this Order shall not apply to covered articles that are imported by and for the use of the United States, or imported for, and to be used for, the United States with the authorization or consent of the Government.
6. The Commission may modify this Order in accordance with the procedures described in section 210.76 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.76).
7. The Secretary shall serve copies of this Order upon each party of record. in this investigation and upon CBP.
8. Notice of this Order shall be published in the Federal Register.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', enclosed within a large, loopy oval flourish.

Lisa R. Barton
Secretary to the Commission

Issued: December 16, 2021

Name and Position of Person Certifying this Questionnaire: _____

Company Name: _____

If you were conducting semiconductor chip fabrication development projects using DuPont's Optiplane™ 2300 or 2600 slurries as of December 16, 2021, the effective date of the remedial orders in this investigation, in the United States and you need to continue to receive the slurries for up to one year after the effective date, please answer the following questions:

1. Describe your semiconductor chip fabrication development project that uses DuPont's Optiplane™ 2300 or 2600 slurries.
2. On what date (mm/dd/yyyy) did your semiconductor chip fabrication development project using the Optiplane™ 2300 or 2600 slurries begin?
3. What type of Optiplane™ slurries do you use for the project?
4. If you expect to complete the transition away from DuPont's Optiplane™ 2300 or 2600 slurries for the project prior to one year after the effective date, indicate the date on which you expect to complete that transition.

I certify that all information provided as part of this questionnaire is accurate and complete to the best of my knowledge. I further certify that I will use any Optiplane™ 2300 or 2600 slurries obtained pursuant to this questionnaire in only the projects described above. I am aware that U.S. law (including, but not limited to, 18 U.S.C. § 1001) imposes criminal sanctions on individuals who knowingly and willfully make materially false statements to the U.S. Government.

Date: _____

Signature: _____

Additional Dupont comments [to be completed by DuPont]:

I certify that all information provided as part of this questionnaire is accurate and complete to the best of my knowledge. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make materially false statements to the U.S. Government.

Date: _____

Signature: _____

**UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC**

In the Matter of

**CERTAIN CHEMICAL MECHANICAL
PLANARIZATION SLURRIES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-1204

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Respondent cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, transferring (except for exportation), soliciting United States agents or distributors, and aiding or abetting other entities in the importation, sale for importation, sale after importation, transfer (except for exportation), or distribution of certain chemical mechanical planarization slurries and colloidal silica abrasive particles that infringe 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”) in violation of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337).

I.

Definitions

As used in this order:

- (A) “Commission” shall mean the United States International Trade Commission.
- (B) “Complainant” shall mean CMC Materials, Inc. of Aurora, Illinois.
- (C) “Respondent” shall mean Rohm and Haas Electronic Materials LLC of Marlborough, Massachusetts.
- (D) “Person” shall mean an individual, or any non-governmental partnership, firm,

association, corporation, or other legal or business entity other than DuPont or its majority-owned or controlled subsidiaries, successors, or assigns.

- (E) “United States” shall mean the fifty States, the District of Columbia, and Puerto Rico.
- (F) The terms “import” and “importation” refer to importation for entry for consumption under the Customs laws of the United States.
- (G) The term “covered products” shall mean chemical mechanical planarization slurries that include colloidal silica abrasive particles and colloidal silica abrasive particles that infringe one or more of claims 1, 3–6, 10, 11, 13, 14, 18–20, 24, 26–29, 31, 35–37, and 39–44 of the ’721 patent.

II. Applicability

The provisions of this Cease and Desist Order shall apply to Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by section III, *infra*, for, with, or otherwise on behalf of, Respondent.

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the ’721 patent, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, sell, or otherwise transfer (except for exportation) imported covered products;
- (C) advertise imported covered products;

- (D) solicit U.S. agents or distributors for imported covered products; or
- (E) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of imported covered products.

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if,

- (A) in a written instrument, the owner of the '721 patent licenses or authorizes such specific conduct,
- (B) such specific conduct is related to the importation or sale of covered products by or for the United States, or
- (C) For up to one year from the date of this Order, entities currently using the covered products in an ongoing semiconductor chip fabrication development project and have a documented need¹ to continue receiving the covered products may continue to receive the covered products.

V. Reporting

For purposes of this requirement, the reporting periods shall commence on January 1 of each year and shall end on the subsequent December 31. The first report required under this section shall cover the period from the date of issuance of this order through December 31, 2022. This reporting requirement shall continue in force until such time as Respondent has truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United

¹ This “documented need” is to be satisfied by the questionnaire attached to this Order, as discussed at pages 53-54 of the Commission Opinion issued in this investigation on the date of this Order.

States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission: (a) the quantity in units and the value in dollars of covered products that it has imported and/or (ii) sold in the United States after importation during the reporting period, and (b) the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period.

When filing written submissions, Respondent must file the original document electronically on or before the deadlines stated above. Submissions should refer to the investigation number (“Inv. No. 337-TA-1204”) in a prominent place on the cover pages and/or the first page. *See Handbook for Electronic Filing Procedures*, http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf.

Persons with questions regarding filing should contact the Secretary (202-205-2000). If Respondent desires to submit a document to the Commission in confidence, it must file the original and a public version of the original with the Office of the Secretary and must serve a copy of the confidential version on Complainant’s counsel.²

Any failure to make the required report or the filing of any false or inaccurate report shall constitute a violation of this Order, and the submission of a false or inaccurate report may be referred to the U.S. Department of Justice as a possible criminal violation of 18 U.S.C. § 1001.

VI. Record-Keeping and Inspection

(A) For the purpose of securing compliance with this Order, Respondent shall retain any and all records relating to the sale, marketing, or distribution in the United States of covered

² Complainant must file a letter with the Secretary identifying the attorney to receive reports and bond information associated with this Order. The designated attorney must be on the protective order entered in the investigation.

products, made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain.

- (B) For the purposes of determining or securing compliance with this Order and for no other purpose, subject to any privilege recognized by the federal courts of the United States, and upon reasonable written notice by the Commission or its staff, duly authorized representatives of the Commission shall be permitted access and the right to inspect and copy, in Respondent's principal offices during office hours, and in the presence of counsel or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other records and documents, in detail and in summary form, that must be retained under subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

Respondent is ordered and directed to:

- (A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of its respective officers, directors, managing agents, agents, and employees who have any responsibility for the importation, marketing, distribution, or sale of imported covered products in the United States;
- (B) Serve, within fifteen (15) days after the succession of any persons referred to in subparagraph VII(A) of this order, a copy of the Order upon each successor; and
- (C) Maintain such records as will show the name, title, and address of each person upon whom the Order has been served, as described in subparagraphs VII(A) and VII(B) of this order, together with the date on which service was made.

The obligations set forth in subparagraphs VII(B) and VII(C) shall remain in effect until

the expiration of the '721 patent.

VIII. Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to section VI of this order should be made in accordance with section 201.6 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 201.6). For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

IX. Enforcement

Violation of this order may result in any of the actions specified in section 210.75 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.75), including an action for civil penalties under section 337(f) of the Tariff Act of 1930 (19 U.S.C. § 1337(f)), as well as any other action that the Commission deems appropriate. In determining whether Respondent is in violation of this order, the Commission may infer facts adverse to Respondent if it fails to provide adequate or timely information.

X. Modification

The Commission may amend this order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.76).

XI. Bonding

The conduct prohibited by section III of this order may be continued during the sixty (60) period in which this Order is under review by the United States Trade Representative, as delegated

by the President (70 *Fed. Reg.* 43,251 (Jul. 21, 2005)), subject to Respondent's posting of a bond in the amount of one hundred percent (100%) of the entered value of the covered products. This bond provision does not apply to conduct that is otherwise permitted by section IV of this Order. Covered products imported on or after the date of issuance of this Order are subject to the entry bond as set forth in the exclusion order issued by the Commission, and are not subject to this bond provision.

The bond is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainant in connection with the issuance of temporary exclusion orders. (*See* 19 C.F.R. § 210.68.) The bond and any accompanying documentation are to be provided to and approved by the Commission prior to the commencement of conduct that is otherwise prohibited by section III of this Order. Upon the Secretary's acceptance of the bond, (a) the Secretary will serve an acceptance letter on all parties, and (b) Respondent must serve a copy of the bond and accompanying documentation on Complainant's counsel.³

The bond is to be forfeited in the event that the United States Trade Representative approves this Order (or does not disapprove it within the review period), unless (i) the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or (ii) Respondent exports or destroys the products subject to this bond and provides certification to that effect that is satisfactory to the Commission.

This bond is to be released in the event (i) the United States Trade Representative disapproves this Order and no subsequent order is issued by the Commission and approved (or not disapproved) by the United States Trade Representative, (ii) the U.S. Court of Appeals for the

³ *See* Footnote 2.

Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or (iii) Respondent exports or destroys the products subject to this bond and provide certification to that effect that is satisfactory to the Commission, upon service on Respondent of an order issued by the Commission based upon application therefor made by Respondent to the Commission.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', enclosed within a large, stylized oval flourish.

Lisa R. Barton
Secretary to the Commission

Issued: December 16, 2021

Name and Position of Person Certifying this Questionnaire: _____

Company Name: _____

If you were conducting semiconductor chip fabrication development projects using DuPont's Optiplane™ 2300 or 2600 slurries as of December 16, 2021, the effective date of the remedial orders in this investigation, in the United States and you need to continue to receive the slurries for up to one year after the effective date, please answer the following questions:

1. Describe your semiconductor chip fabrication development project that uses DuPont's Optiplane™ 2300 or 2600 slurries.
2. On what date (mm/dd/yyyy) did your semiconductor chip fabrication development project using the Optiplane™ 2300 or 2600 slurries begin?
3. What type of Optiplane™ slurries do you use for the project?
4. If you expect to complete the transition away from DuPont's Optiplane™ 2300 or 2600 slurries for the project prior to one year after the effective date, indicate the date on which you expect to complete that transition.

I certify that all information provided as part of this questionnaire is accurate and complete to the best of my knowledge. I further certify that I will use any Optiplane™ 2300 or 2600 slurries obtained pursuant to this questionnaire in only the projects described above. I am aware that U.S. law (including, but not limited to, 18 U.S.C. § 1001) imposes criminal sanctions on individuals who knowingly and willfully make materially false statements to the U.S. Government.

Date: _____

Signature: _____

Additional Dupont comments [to be completed by DuPont]:

I certify that all information provided as part of this questionnaire is accurate and complete to the best of my knowledge. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make materially false statements to the U.S. Government.

Date: _____

Signature: _____

**UNITED STATES INTERNATIONAL TRADE COMMISSION
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**CERTAIN CHEMICAL MECHANICAL
PLANARIZATION SLURRIES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-1204

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Respondent cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, transferring (except for exportation), soliciting United States agents or distributors, and aiding or abetting other entities in the importation, sale for importation, sale after importation, transfer (except for exportation), or distribution of certain chemical mechanical planarization slurries and colloidal silica abrasive particles that infringe 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”) in violation of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337).

I.

Definitions

As used in this order:

- (A) “Commission” shall mean the United States International Trade Commission.
- (B) “Complainant” shall mean CMC Materials, Inc. of Aurora, Illinois.
- (C) “Respondent” shall mean Rohm and Haas Electronic Materials CMP, LLC of Newark, Delaware.
- (D) “Person” shall mean an individual, or any non-governmental partnership, firm,

association, corporation, or other legal or business entity other than DuPont or its majority-owned or controlled subsidiaries, successors, or assigns.

- (E) “United States” shall mean the fifty States, the District of Columbia, and Puerto Rico.
- (F) The terms “import” and “importation” refer to importation for entry for consumption under the Customs laws of the United States.
- (G) The term “covered products” shall mean chemical mechanical planarization slurries that include colloidal silica abrasive particles and colloidal silica abrasive particles that infringe one or more of claims 1, 3–6, 10, 11, 13, 14, 18–20, 24, 26–29, 31, 35–37, and 39–44 of the ’721 patent.

II. Applicability

The provisions of this Cease and Desist Order shall apply to Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by section III, *infra*, for, with, or otherwise on behalf of, Respondent.

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the ’721 patent, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, sell, or otherwise transfer (except for exportation) imported covered products;
- (C) advertise imported covered products;

- (D) solicit U.S. agents or distributors for imported covered products; or
- (E) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of imported covered products.

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if,

- (A) in a written instrument, the owner of the '721 patent licenses or authorizes such specific conduct,
- (B) such specific conduct is related to the importation or sale of covered products by or for the United States, or
- (C) For up to one year from the date of this Order, entities currently using the covered products in an ongoing semiconductor chip fabrication development project and have a documented need¹ to continue receiving the covered products may continue to receive the covered products.

V. Reporting

For purposes of this requirement, the reporting periods shall commence on January 1 of each year and shall end on the subsequent December 31. The first report required under this section shall cover the period from the date of issuance of this order through December 31, 2022. This reporting requirement shall continue in force until such time as Respondent has truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United

¹ This “documented need” is to be satisfied by the questionnaire attached to this Order, as discussed at pages 53-54 of the Commission Opinion issued in this investigation on the date of this Order.

States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission: (a) the quantity in units and the value in dollars of covered products that it has imported and/or (ii) sold in the United States after importation during the reporting period, and (b) the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period.

When filing written submissions, Respondent must file the original document electronically on or before the deadlines stated above. Submissions should refer to the investigation number (“Inv. No. 337-TA-1204”) in a prominent place on the cover pages and/or the first page. *See Handbook for Electronic Filing Procedures*, http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf.

Persons with questions regarding filing should contact the Secretary (202-205-2000). If Respondent desires to submit a document to the Commission in confidence, it must file the original and a public version of the original with the Office of the Secretary and must serve a copy of the confidential version on Complainant’s counsel.²

Any failure to make the required report or the filing of any false or inaccurate report shall constitute a violation of this Order, and the submission of a false or inaccurate report may be referred to the U.S. Department of Justice as a possible criminal violation of 18 U.S.C. § 1001.

VI. Record-Keeping and Inspection

(A) For the purpose of securing compliance with this Order, Respondent shall retain any and all records relating to the sale, marketing, or distribution in the United States of covered

² Complainant must file a letter with the Secretary identifying the attorney to receive reports and bond information associated with this Order. The designated attorney must be on the protective order entered in the investigation.

products, made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain.

- (B) For the purposes of determining or securing compliance with this Order and for no other purpose, subject to any privilege recognized by the federal courts of the United States, and upon reasonable written notice by the Commission or its staff, duly authorized representatives of the Commission shall be permitted access and the right to inspect and copy, in Respondent's principal offices during office hours, and in the presence of counsel or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other records and documents, in detail and in summary form, that must be retained under subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

Respondent is ordered and directed to:

- (A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of its respective officers, directors, managing agents, agents, and employees who have any responsibility for the importation, marketing, distribution, or sale of imported covered products in the United States;
- (B) Serve, within fifteen (15) days after the succession of any persons referred to in subparagraph VII(A) of this order, a copy of the Order upon each successor; and
- (C) Maintain such records as will show the name, title, and address of each person upon whom the Order has been served, as described in subparagraphs VII(A) and VII(B) of this order, together with the date on which service was made.

The obligations set forth in subparagraphs VII(B) and VII(C) shall remain in effect until

the expiration of the '721 patent.

VIII. Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to section VI of this order should be made in accordance with section 201.6 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 201.6). For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

IX. Enforcement

Violation of this order may result in any of the actions specified in section 210.75 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.75), including an action for civil penalties under section 337(f) of the Tariff Act of 1930 (19 U.S.C. § 1337(f)), as well as any other action that the Commission deems appropriate. In determining whether Respondent is in violation of this order, the Commission may infer facts adverse to Respondent if it fails to provide adequate or timely information.

X. Modification

The Commission may amend this order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.76).

XI. Bonding

The conduct prohibited by section III of this order may be continued during the sixty (60) period in which this Order is under review by the United States Trade Representative, as delegated

by the President (70 *Fed. Reg.* 43,251 (Jul. 21, 2005)), subject to Respondent's posting of a bond in the amount of one hundred percent (100%) of the entered value of the covered products. This bond provision does not apply to conduct that is otherwise permitted by section IV of this Order. Covered products imported on or after the date of issuance of this Order are subject to the entry bond as set forth in the exclusion order issued by the Commission, and are not subject to this bond provision.

The bond is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainant in connection with the issuance of temporary exclusion orders. (*See* 19 C.F.R. § 210.68.) The bond and any accompanying documentation are to be provided to and approved by the Commission prior to the commencement of conduct that is otherwise prohibited by section III of this Order. Upon the Secretary's acceptance of the bond, (a) the Secretary will serve an acceptance letter on all parties, and (b) Respondent must serve a copy of the bond and accompanying documentation on Complainant's counsel.³

The bond is to be forfeited in the event that the United States Trade Representative approves this Order (or does not disapprove it within the review period), unless (i) the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or (ii) Respondent exports or destroys the products subject to this bond and provides certification to that effect that is satisfactory to the Commission.

This bond is to be released in the event (i) the United States Trade Representative disapproves this Order and no subsequent order is issued by the Commission and approved (or not disapproved) by the United States Trade Representative, (ii) the U.S. Court of Appeals for the

³ *See* Footnote 2.

Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or (iii) Respondent exports or destroys the products subject to this bond and provide certification to that effect that is satisfactory to the Commission, upon service on Respondent of an order issued by the Commission based upon application therefor made by Respondent to the Commission.

By order of the Commission.

A handwritten signature in black ink, appearing to read "Lisa R. Barton", enclosed within a large, loopy oval flourish.

Lisa R. Barton
Secretary to the Commission

Issued: December 16, 2021

Name and Position of Person Certifying this Questionnaire: _____

Company Name: _____

If you were conducting semiconductor chip fabrication development projects using DuPont's Optiplane™ 2300 or 2600 slurries as of December 16, 2021, the effective date of the remedial orders in this investigation, in the United States and you need to continue to receive the slurries for up to one year after the effective date, please answer the following questions:

1. Describe your semiconductor chip fabrication development project that uses DuPont's Optiplane™ 2300 or 2600 slurries.
2. On what date (mm/dd/yyyy) did your semiconductor chip fabrication development project using the Optiplane™ 2300 or 2600 slurries begin?
3. What type of Optiplane™ slurries do you use for the project?
4. If you expect to complete the transition away from DuPont's Optiplane™ 2300 or 2600 slurries for the project prior to one year after the effective date, indicate the date on which you expect to complete that transition.

I certify that all information provided as part of this questionnaire is accurate and complete to the best of my knowledge. I further certify that I will use any Optiplane™ 2300 or 2600 slurries obtained pursuant to this questionnaire in only the projects described above. I am aware that U.S. law (including, but not limited to, 18 U.S.C. § 1001) imposes criminal sanctions on individuals who knowingly and willfully make materially false statements to the U.S. Government.

Date: _____

Signature: _____

Additional Dupont comments [to be completed by DuPont]:

I certify that all information provided as part of this questionnaire is accurate and complete to the best of my knowledge. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make materially false statements to the U.S. Government.

Date: _____

Signature: _____

**UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC**

In the Matter of

**CERTAIN CHEMICAL MECHANICAL
PLANARIZATION SLURRIES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-1204

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Respondent cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, transferring (except for exportation), soliciting United States agents or distributors, and aiding or abetting other entities in the importation, sale for importation, sale after importation, transfer (except for exportation), or distribution of certain chemical mechanical planarization slurries and colloidal silica abrasive particles that infringe 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”) in violation of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337).

I.

Definitions

As used in this order:

- (A) “Commission” shall mean the United States International Trade Commission.
- (B) “Complainant” shall mean CMC Materials, Inc. of Aurora, Illinois.
- (C) “Respondent” shall mean DuPont de Nemours, Inc. of Wilmington, Delaware.
- (D) “Person” shall mean an individual, or any non-governmental partnership, firm, association, corporation, or other legal or business entity other than DuPont or its

majority-owned or controlled subsidiaries, successors, or assigns.

- (E) “United States” shall mean the fifty States, the District of Columbia, and Puerto Rico.
- (F) The terms “import” and “importation” refer to importation for entry for consumption under the Customs laws of the United States.
- (G) The term “covered products” shall mean chemical mechanical planarization slurries that include colloidal silica abrasive particles and colloidal silica abrasive particles that infringe one or more of claims 1, 3–6, 10, 11, 13, 14, 18–20, 24, 26–29, 31, 35–37, and 39–44 of the ’721 patent.

II. Applicability

The provisions of this Cease and Desist Order shall apply to Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by section III, *infra*, for, with, or otherwise on behalf of, Respondent.

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the ’721 patent, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, sell, or otherwise transfer (except for exportation) imported covered products;
- (C) advertise imported covered products;
- (D) solicit U.S. agents or distributors for imported covered products; or

- (E) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of imported covered products.

**IV.
Conduct Permitted**

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if,

- (A) in a written instrument, the owner of the '721 patent licenses or authorizes such specific conduct,
- (B) such specific conduct is related to the importation or sale of covered products by or for the United States, or
- (C) For up to one year from the date of this Order, entities currently using the covered products in an ongoing semiconductor chip fabrication development project and have a documented need¹ to continue receiving the covered products may continue to receive the covered products.

**V.
Reporting**

For purposes of this requirement, the reporting periods shall commence on January 1 of each year and shall end on the subsequent December 31. The first report required under this section shall cover the period from the date of issuance of this order through December 31, 2022. This reporting requirement shall continue in force until such time as Respondent has truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United States.

¹ This “documented need” is to be satisfied by the questionnaire attached to this Order, as discussed at pages 53-54 of the Commission Opinion issued in this investigation on the date of this Order.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission: (a) the quantity in units and the value in dollars of covered products that it has imported and/or (ii) sold in the United States after importation during the reporting period, and (b) the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period.

When filing written submissions, Respondent must file the original document electronically on or before the deadlines stated above. Submissions should refer to the investigation number (“Inv. No. 337-TA-1204”) in a prominent place on the cover pages and/or the first page. *See Handbook for Electronic Filing Procedures, http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf.* Persons with questions regarding filing should contact the Secretary (202-205-2000). If Respondent desires to submit a document to the Commission in confidence, it must file the original and a public version of the original with the Office of the Secretary and must serve a copy of the confidential version on Complainant’s counsel.²

Any failure to make the required report or the filing of any false or inaccurate report shall constitute a violation of this Order, and the submission of a false or inaccurate report may be referred to the U.S. Department of Justice as a possible criminal violation of 18 U.S.C. § 1001.

VI. Record-Keeping and Inspection

(A) For the purpose of securing compliance with this Order, Respondent shall retain any and all records relating to the sale, marketing, or distribution in the United States of covered products, made and received in the usual and ordinary course of business, whether in detail

² Complainant must file a letter with the Secretary identifying the attorney to receive reports and bond information associated with this Order. The designated attorney must be on the protective order entered in the investigation.

or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain.

- (B) For the purposes of determining or securing compliance with this Order and for no other purpose, subject to any privilege recognized by the federal courts of the United States, and upon reasonable written notice by the Commission or its staff, duly authorized representatives of the Commission shall be permitted access and the right to inspect and copy, in Respondent's principal offices during office hours, and in the presence of counsel or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other records and documents, in detail and in summary form, that must be retained under subparagraph VI(A) of this Order.

VII.

Service of Cease and Desist Order

Respondent is ordered and directed to:

- (A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of its respective officers, directors, managing agents, agents, and employees who have any responsibility for the importation, marketing, distribution, or sale of imported covered products in the United States;
- (B) Serve, within fifteen (15) days after the succession of any persons referred to in subparagraph VII(A) of this order, a copy of the Order upon each successor; and
- (C) Maintain such records as will show the name, title, and address of each person upon whom the Order has been served, as described in subparagraphs VII(A) and VII(B) of this order, together with the date on which service was made.

The obligations set forth in subparagraphs VII(B) and VII(C) shall remain in effect until the expiration of the '721 patent.

VIII.
Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to section VI of this order should be made in accordance with section 201.6 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 201.6). For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

IX.
Enforcement

Violation of this order may result in any of the actions specified in section 210.75 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.75), including an action for civil penalties under section 337(f) of the Tariff Act of 1930 (19 U.S.C. § 1337(f)), as well as any other action that the Commission deems appropriate. In determining whether Respondent is in violation of this order, the Commission may infer facts adverse to Respondent if it fails to provide adequate or timely information.

X.
Modification

The Commission may amend this order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.76).

XI.
Bonding

The conduct prohibited by section III of this order may be continued during the sixty (60) period in which this Order is under review by the United States Trade Representative, as delegated by the President (70 *Fed. Reg.* 43,251 (Jul. 21, 2005)), subject to Respondent's posting of a bond

in the amount of one hundred percent (100%) of the entered value of the covered products. This bond provision does not apply to conduct that is otherwise permitted by section IV of this Order. Covered products imported on or after the date of issuance of this Order are subject to the entry bond as set forth in the exclusion order issued by the Commission, and are not subject to this bond provision.

The bond is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainant in connection with the issuance of temporary exclusion orders. (*See* 19 C.F.R. § 210.68.) The bond and any accompanying documentation are to be provided to and approved by the Commission prior to the commencement of conduct that is otherwise prohibited by section III of this Order. Upon the Secretary's acceptance of the bond, (a) the Secretary will serve an acceptance letter on all parties, and (b) Respondent must serve a copy of the bond and accompanying documentation on Complainant's counsel.³

The bond is to be forfeited in the event that the United States Trade Representative approves this Order (or does not disapprove it within the review period), unless (i) the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or (ii) Respondent exports or destroys the products subject to this bond and provides certification to that effect that is satisfactory to the Commission.

This bond is to be released in the event (i) the United States Trade Representative disapproves this Order and no subsequent order is issued by the Commission and approved (or not disapproved) by the United States Trade Representative, (ii) the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to

³ *See* Footnote 2.

Respondent on appeal, or (iii) Respondent exports or destroys the products subject to this bond and provide certification to that effect that is satisfactory to the Commission, upon service on Respondent of an order issued by the Commission based upon application therefor made by Respondent to the Commission.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', enclosed within a large, loopy oval flourish.

Lisa R. Barton
Secretary to the Commission

Issued: December 16, 2021

Name and Position of Person Certifying this Questionnaire: _____

Company Name: _____

If you were conducting semiconductor chip fabrication development projects using DuPont's Optiplane™ 2300 or 2600 slurries as of December 16, 2021, the effective date of the remedial orders in this investigation, in the United States and you need to continue to receive the slurries for up to one year after the effective date, please answer the following questions:

1. Describe your semiconductor chip fabrication development project that uses DuPont's Optiplane™ 2300 or 2600 slurries.
2. On what date (mm/dd/yyyy) did your semiconductor chip fabrication development project using the Optiplane™ 2300 or 2600 slurries begin?
3. What type of Optiplane™ slurries do you use for the project?
4. If you expect to complete the transition away from DuPont's Optiplane™ 2300 or 2600 slurries for the project prior to one year after the effective date, indicate the date on which you expect to complete that transition.

I certify that all information provided as part of this questionnaire is accurate and complete to the best of my knowledge. I further certify that I will use any Optiplane™ 2300 or 2600 slurries obtained pursuant to this questionnaire in only the projects described above. I am aware that U.S. law (including, but not limited to, 18 U.S.C. § 1001) imposes criminal sanctions on individuals who knowingly and willfully make materially false statements to the U.S. Government.

Date: _____

Signature: _____

Additional Dupont comments [to be completed by DuPont]:

I certify that all information provided as part of this questionnaire is accurate and complete to the best of my knowledge. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make materially false statements to the U.S. Government.

Date: _____

Signature: _____

CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached document has been served via EDIS upon the Commission OUII Investigative Attorney and the following parties as indicated, upon the date listed below.

Document	Security	Document Type	Official Rec'd Date	Title
758717	Public	Notice	12/16/2021 01:00 PM	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

Service Date: December 16, 2021

/s/

Lisa R. Barton
U.S. International Trade Commission
500 E Street, S.W.
Suite 112
Washington, D.C. 20436

CERTIFICATE OF SERVICE

On behalf of Complainant CMC Materials, Inc.:

Lisa M. Kattan

Baker Botts L.L.P.

700 K Street, NW

Washington, District of Columbia 20001, United States

Electronic Service

On behalf of Respondent DuPont De Nemours, Inc.; Rohm and Haas Electronic Materials Asia-Pacific Co., Ltd.; Rohm and Haas Electronic Materials CMP Asia Inc. (d/b/a Rohm and Haas Electronic Materials CMP Asia Inc., Taiwan Branch (U.S.A.)); Rohm and Haas Electronic Materials CMP, LLC; Rohm and Haas Electronic Materials K.K.; Rohm and Haas Electronic Materials LLC:

Mareesa A. Frederick

Finnegan, Henderson, Farabow, Garrett & Dunner

901 New York Ave, Washington DC

Washington, District of Columbia 20001, United States

Electronic Service

On behalf of U.S. International Trade Commission :

Thomas Chen

OUII Investigative Attorney

500 E Street, S.W.

Washington, D.C. 20436

Internal Service