

PUBLIC VERSION

**UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.**

In the Matter of

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

Investigation No. 337-TA-1204

**NOTICE OF COMMISSION DETERMINATION REQUESTING CERTAIN
INFORMATION FROM INTEL AND DIRECTING INTEL TO PRODUCE
DOCUMENT ALLEGEDLY BEARING ON THE PUBLIC INTEREST; 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 has determined to request certain information from Intel and to direct Intel to produce a document allegedly bearing on the public interest in this investigation. The Commission has also determined to extend the target date to December 9, 2021.

FOR FURTHER INFORMATION CONTACT: Panyin A. Hughes, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, D.C. 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. 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 ("section 337"), 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,

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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 presiding 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 (hereinafter “CMC”). 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. 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 September 22, 2021, the Commission determined to review the ID in part. 86 FR 53674-76 (Sept. 28, 2021). 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.

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Having considered the briefing from the parties and Intel, the Commission directs Intel to produce the PI Document. The Commission also requests Intel to provide answers to the following questions:

- (1) [[
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- (2) If an exclusion order issues as to the accused products, please explain how much time Intel would need to transition to another CMP slurry. Please also explain why other slurries currently used by Intel could not be used as a replacement. Please identify what portion of Intel's U.S. production would be affected by exclusion of the accused products. Please provide any documentation supporting Intel's position.

Intel's written submission and the PI Document must be filed no later than the close of business on November 8, 2021. The parties are invited to provide responses to Intel's submission by no later than the close of business on November 15, 2021. No further submissions on any of these issues will be permitted unless otherwise ordered by the Commission. The Commission hereby extends the target date in this investigation to December 9, 2021.

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 C.F.R. 210.4(f) are currently waived. 85 FR 15798 (March 19, 2020). Submissions should refer to the investigation number ("Inv. No. 337-TA-1204") in a prominent place on the cover page and/or the first page. (*See Handbook on Filing Procedures, https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*) Persons with questions regarding filing should contact the Secretary at (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.

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The Commission's vote on this determination took place on November 1, 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 210).

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: November 2, 2021