

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN SILICON PHOTOVOLTAIC
CELLS AND MODULES WITH
NANOSTRUCTURES, AND PRODUCTS
CONTAINING THE SAME**

Investigation No. 337-TA-1271

**NOTICE OF COMMISSION DETERMINATION TO EXTEND THE DEADLINE FOR
DETERMINING WHETHER TO REVIEW AN INITIAL DETERMINATION ON
VIOLATION OF SECTION 337**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to extend until February 27, 2023, the deadline for determining whether to review the presiding chief administrative law judge's ("CALJ") initial determination ("ID") finding no violation of section 337 of the Tariff Act of 1930, as amended, in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Richard P. Hadorn, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3179. 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, telephone (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on July 20, 2021, based on a complaint filed by Advanced Silicon Group Technologies, LLC ("ASGT") of Lowell, Massachusetts. 86 FR 38356 (July 20, 2021). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based on the importation into the United States, the sale for importation, and the sale within the United States after importation of certain silicon photovoltaic cells and modules with nanostructures, and products containing the same by reason of infringement of certain claims of U.S. Patent Nos. 10,269,995 ("the '995 patent"); 8,450,599 ("the '599 patent"); 8,852,981 ("the '981 patent");

9,601,640 (“the ’640 patent”); 9,768,331 (“the ’331 patent”); and 10,692,971 (“the ’971 patent”). *Id.* at 38357. The complaint further alleges that a domestic industry exists or is in the process of being established. *Id.* The notice of investigation named 28 respondents, including: Canadian Solar International Limited of Hong Kong, China; Canadian Solar Manufacturing (Thailand) Co. Ltd. of Chon Buri, Thailand; Canadian Solar Manufacturing Vietnam Co. Ltd. of Hai Phong City, Vietnam; Canadian Solar (USA) Inc. of Walnut Creek, California; and Recurrent Energy SH Proco LLC of Walnut Creek, California (“Canadian Solar Respondents”); Hanwha Solutions Corporation of Seoul, Republic of Korea; Hanwha Q Cell EPC USA LLC of Irvine, California; Hanwha Q Cells America Inc. of Irvine, California; Hanwha Q Cells USA Inc. of Dalton, Georgia; and Hanwha Q Cells Malaysia Sdn. Bhd of Selangor, Malaysia (“Hanwha Respondents”); Ningbo Boway Alloy Material Co., Ltd. of Zhejiang Province, China; Boviet Solar Technology Co., Ltd. of Bac Giang Province, Vietnam; Boviet Renewable Power, LLC of San Jose, California; and Boviet Solar USA Ltd. of San Jose, California (“Boviet Respondents”); and Canadian Solar Inc. of Ontario, Canada; Canadian Solar Manufacturing (Changshu) Co. Inc. of Jiangsu, China; Canadian Solar Manufacturing (Luoyang) Inc. of Henan, China; Canadian Solar Solutions, Inc. of Ontario, Canada; Canadian Solar Construction (USA) LLC of Walnut Creek, California; Recurrent Energy Group Inc. of San Francisco, California; Recurrent Energy, LLC of Walnut Creek, California; Hanwha Q Cells GmbH of Bitterfeld-Wolfen, Germany; Hanwha Q Cells (Qidong) Co., Ltd. of Jiangsu, China; Hanwha Energy USA Holdings Corp. (d/b/a 174 Power Global Corporation) of Irvine, California; Hanwha Q Cells USA Corp. of Irvine, California; HQC Rock River Solar Holdings LLC of Irvine, California; HQC Rock River Solar Power Generation Station, LLC of Beloit, Wisconsin; and Hanwha Q CELLS & Advanced Materials Corp. of Seoul, Republic of Korea (“Terminated Respondents”). *Id.* The Office of Unfair Import Investigations is also named as a party. *Id.*

On February 22, 2022, the Commission determined to terminate the investigation as to the ’971 patent (Order No. 7) and the Terminated Respondents (Order No. 8) based on ASGT’s withdrawal of the allegations in the complaint as to that patent and those respondents. Order Nos. 7 and 8 (Feb. 1, 2022), *unreviewed by* Comm’n Notice (Feb. 22, 2022). On June 21, 2022, the Commission determined to terminate the investigation as to the ’995 patent, asserted claims 17 and 25 of the ’599 patent, asserted claims 1, 2, and 26 of the ’981 patent, asserted claims 14 and 16-18 of the ’640 patent, and asserted claims 2 and 10 of the ’331 patent based on ASGT’s withdrawal of the allegations in the complaint as to that patent and those claims. Order No. 12 (May 31, 2022), *unreviewed by* Comm’n Notice (June 21, 2022).

On September 1, 2022, the CALJ issued the subject final ID on violation and RD on remedy and bond. The ID finds that no violation of section 337 has occurred as to the Canadian Solar Respondents, Hanwha Respondents, and Boviet Respondents with respect to the claims of the four remaining asserted patents—*i.e.*, the ’599, ’981, ’640, and ’331 patents. The RD recommends that, should the Commission determine that violations of section 337 occurred, the Commission should: (i) issue a limited exclusion order against the remaining respondents’ infringing products; (ii) issue a cease and desist order against the Canadian Solar Respondents, but not against the Hanwha Respondents or Boviet Respondents; and (iii) enter no bond for any importations of infringing products during the period of Presidential review.

The Commission has determined to extend until February 27, 2023, the deadline for determining whether to review the ID on violation in this investigation.

The Commission vote for this determination took place on February 15, 2023.

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.

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

Lisa R. Barton
Secretary to the Commission

Issued: February 15, 2023