

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

CERTAIN POLYIMIDE FILMS,
PRODUCTS CONTAINING SAME,
AND RELATED METHODS

Investigation No. 337-TA-772

NOTICE OF COMMISSION DETERMINATION TO AFFIRM THE FINAL INITIAL
DETERMINATION WITH RESPECT TO THE ISSUES ON REVIEW AND TO
TERMINATE THE INVESTIGATION

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to affirm, as modified, the final initial determination (“final ID” or “ID”) of the presiding administrative law judge (“ALJ”) in the above-captioned investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“section 337”), and has terminated the investigation.

FOR FURTHER INFORMATION CONTACT: James A. Worth, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3065. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.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: The Commission instituted this investigation on May 4, 2011, based on a complaint filed on behalf of Kaneka Corporation of Osaka, Japan (“Kaneka”). 76 *Fed. Reg.* 25373 (May 4, 2011). The complaint alleges violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, in the sale for importation, importation, or sale after importation of certain polyimide films, products containing same, and related methods by reason of infringement of one or more of claims 1-3 and 9-10 of U.S. Patent No. 6,264,866 (“the ‘866 patent”); claims 1-6 of U.S. Patent No. 6,746,639 (“the ‘639 patent”); claims 1-5 of U.S. Patent No. 7,018,704 (“the ‘704 patent”); and claims 1-20 of U.S. Patent No. 7,691,961 (“the ‘961 patent”). The Commission's notice of investigation named as respondents SKC Kolon PI, Inc. of Gyeonggi-do, South Korea and SKC Corporation of Covington, Georgia (“collectively, “SKC”).

On February 23, 2012, the Commission issued notice of its determination not to review an ID (Order No. 26) that Kaneka has satisfied the importation requirement with respect to all versions of the following SKC products: IN30 (75 um), IN70 (19um), IN 70 (25um), IN70 (50um), IF30 (7.5um), IF70 (12.5um), LV100, LV200, and LV300.

On February 27, 2012, the Commission issued notice of its determination not to review an ID (Order No. 25) terminating the investigation with respect to claims 4-5 of the '704 patent and claims 4, 11, 16, 17, and 20 of the '961 patent.

An evidentiary hearing was held from March 12, 2012, to March 16, 2012.

On May 10, 2012, the ALJ issued a final ID finding no violation of section 337 in the above-identified investigation. Specifically, the ALJ found that there was no violation with respect to the '866 patent, the '639 patent, the '704 patent, or the '961 patent by SKC. The ALJ also issued a recommended determination on remedy and bonding.

On May 22, 2012, Kaneka filed a petition for review of the final ID and on May 23, 2012, SKC filed a contingent petition for review. On May 30, 2012, SKC filed a response to Kaneka's petition, and on May 31, 2012, Kaneka filed a response to SKC's contingent petition.

On August 1, 2012, the Commission issued notice of its determination to partially review the final ID. *77 Fed. Reg.* 47092 (August 7, 2012). With respect to the '866 patent, the Commission determined to review the finding that Kaneka does not satisfy the technical prong of the domestic industry requirement. *Id.* With respect to the '961 patent, the Commission determined to review the ALJ's finding that certain of the accused products infringe and certain of the accused products do not infringe claim 9. *Id.* With respect to the '704 patent, the Commission determined not to review the ALJ's conclusion that the asserted claims of the '704 patent are invalid for indefiniteness. *Id.* The Commission further determined to review and vacate as moot the ID's remaining findings with respect to the '704 patent. The Commission determined not to review the remainder of the ID. *Id.*

On August 15, 2012, Kaneka and SKC each filed submissions on review. On August 22, 2012, each filed reply submissions.

On review, having examined the final ID, the submissions of the parties, and the relevant portions of the record in this investigation, the Commission has determined to affirm the ID with respect to the issues on review. With respect to the '866 patent, the Commission has determined to affirm the ALJ's determination that Kaneka has failed to satisfy the technical prong of the domestic industry requirement on modified grounds. With respect to the '961 patent, the Commission has determined to affirm the ALJ's finding that the IN70 (50µm) product infringes claim 9 and the other accused products do not. The investigation is terminated.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and under Part 210 of the Commission's Rules of Practice and Procedure (19 C.F.R. Part 210).

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', written in a cursive style.

Lisa R. Barton
Acting Secretary to the Commission

Issued: October 5, 2012