

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

In the Matter of
CERTAIN LAMINATED FLOOR PANELS

Investigation No. 337-TA-545
(Consolidated Enforcement and
Advisory Opinion Proceeding)

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW AN
INITIAL DETERMINATION TERMINATING CONSOLIDATED
ENFORCEMENT AND ADVISORY OPINION PROCEEDING
ON THE BASIS OF A SETTLEMENT AGREEMENT
AND CROSS-LICENSE AGREEMENT**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (“ID”) (Order No. 38) of the presiding administrative law judge (“ALJ”) in the above-captioned proceeding terminating the proceeding on the basis of a settlement agreement and cross-license agreement.

FOR FURTHER INFORMATION CONTACT: Michael K. Haldenstein, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3041. 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 at <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 the underlying investigation on August 3, 2005, based on a complaint filed by Unilin Beheer B.V. of the Netherlands, Flooring Industries Ltd. of Ireland, and Unilin Flooring N.C. LLC of North Carolina (collectively “Unilin”). 70 Fed. Reg. 44,694 (August 3, 2005). The complaint, as amended, alleged violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain laminated floor panels by reason of infringement of one or more of claims 1, 14, 17, 19-21, 37, 52, 65, and 66 of U.S. Patent No. 6,006,486; claims 1, 2, 10, 13, 18, 19, 22-24, and 27 of U.S. Patent No.

6,490,836 (“the ‘836 patent”); claims 1-6 of U.S. Patent No. 6,874,292 (“the ‘292 patent”); and claims 1, 5, 13, 17, 27 and 28 of U.S. Patent No. 6,928,779 (“the ‘779 patent”).

On January 5, 2007, the Commission issued its final determination finding a violation of section 337 and infringement of claims 1, 2, 10, 18, and 23 of the ‘836 patent, claims 5 and 17 of the ‘779 patent, and claims 3 and 4 of the ‘292 patent. The Commission determined to issue a general exclusion order under 19 U.S.C. § 1337(d)(2), as well as cease and desist orders to certain respondents. On July 31, 2008, the U.S. Court of Appeals for the Federal Circuit issued a decision in *Yingbin-Nature (Guangdong) Wood Industry Co., Ltd. v. Int’l Trade Comm’n.*, 535 F.3d 1322 (Fed. Cir. 2008) affirming the Commission’s final determination on violation.

Unilin filed a complaint on March 24, 2008, and a corrected complaint on April 30, 2008, requesting that the Commission institute a formal enforcement proceeding under Commission rule 210.75 to investigate violations of the general exclusion order. The complaint named as respondent Uniboard Canada, Inc. (Quebec, Canada) (“Uniboard”). On April 15, 2008, Uniboard filed a request for an advisory opinion that its products would not violate the general exclusion order. Uniboard requested that the advisory opinion proceeding be consolidated with the enforcement proceeding. On June 20, 2008, the Commission determined to consolidate the formal enforcement and advisory opinion proceedings and certify the consolidated proceedings to Judge Luckern. *73 Fed. Reg.* 36355 (June 25, 2008).

On December 8, 2008, Unilin and Uniboard jointly moved, pursuant to Commission rule 210.21, to terminate the consolidated enforcement and advisory opinion proceeding in light of a settlement agreement and a cross-license agreement between Unilin and Uniboard. The Commission investigative attorney filed a response in support of the motion.

The ALJ issued the subject ID on December 29, 2008, granting the joint motion to terminate the proceeding. No petitions for review were filed and the Commission has determined not to review the subject ID. The consolidated enforcement and advisory opinion proceeding 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 Commission rules 210.21, 210.42, 19 C.F.R. §§ 210.21, 210.42.

By order of the Commission.

/s/

Marilyn R. Abbott
Secretary to the Commission

Issued: January 21, 2009