

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN SYNTHETIC ROOFING
UNDERLAYMENT PRODUCTS AND
COMPONENTS THEREOF**

Inv. No. 337-TA-1202

NOTICE OF INSTITUTION OF INVESTIGATION

Institution of Investigation Pursuant to 19 U.S.C. 1337

AGENCY: U.S. International Trade Commission

ACTION: Notice

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 24, 2020, under section 337 of the Tariff Act of 1930, as amended, on behalf of Kirsch Research and Development, LLC, of Simi Valley, California. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and/or the sale within the United States after importation of certain synthetic roofing underlayment products and components thereof by reason of infringement of certain claims of U.S. Patent No. 8,765,251 (“the ’251 patent”). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205-2000. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>.

FOR FURTHER INFORMATION CONTACT: Katherine Hiner, Office of Docket Services, U.S. International Trade Commission, telephone (202) 205-1802.

SUPPLEMENTARY INFORMATION:

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission’s Rules of Practice and Procedure, 19 C.F.R. 210.10 (2020).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on May 26, 2020, **ORDERED THAT** –

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) 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 products identified in paragraph (2) by reason of infringement of one or more of claims 1-19 of the ’251 patent; and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission’s Rules of Practice and Procedure, 19 C.F.R. 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is “synthetic materials that are installed between a roof support deck and the outer surface of a roof and incorporate an innovative multi-layer structure and compositions to provide improved slip-resistance, weather-resistance, and structural integrity that is safer, easier to install, and lasts longer.”

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

Kirsch Research and Development, LLC
1296 Patricia Avenue
Simi Valley, CA 93065

(b) The respondents are the following entities alleged to be in violation of section 337, and is/are the parties upon which the complaint is to be served:

Atlas Roofing Corporation
2000 RiverEdge Parkway
Atlanta, GA 30328

CertainTeed Corporation
20 Moores Road
Malvern, PA 19355

Dupont De Nemours, Inc.
974 Centre Road
Wilmington, DE 19805

E. I. Du Pont De Nemours and Company
974 Centre Road
Wilmington, DE 19805

Epilay, Inc.
21175 South Main Street, E1 Unit C,
Carson, CA 90745

GAF Corporation
1 Campus Drive
Parsippany, NJ 07054

InterWrap Corp.
1 Owens Corning Parkway
Toledo, OH 43659

Owens Corning
1 Owens Corning Parkway
Toledo, OH 43659

Owens Corning Roofing & Asphalt,
LLC
1 Owens Corning Parkway
Toledo, OH 43659

System Components Corporation
50 SE Bush Street
Issaquah, WA 98027

Tamko Building Products, LLC
220 W. 4th Street
Joplin, MO 64801

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Office of Unfair Import Investigations will not participate as a party in this investigation.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.13. Pursuant to 19 C.F.R. 201.16(e) and 210.13(a), as amended in 85

Fed. Reg. 15798 (March 19, 2020), such responses will be considered by the Commission if received not later than 20 days after the date of service by the complainant of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

A handwritten signature in black ink, appearing to read "Lisa R. Barton".

Lisa R. Barton
Secretary to the Commission

Issued: May 26, 2020