INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1020 (Review)]

Barium Carbonate From China

Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), that revocation of the antidumping duty order on barium carbonate from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted this review on September 2, 2008 (73 FR 51315) and determined on December 8, 2008 that it would conduct an expedited review (73 FR 77058, December 18, 2008).

The Commission transmitted its determination in this review to the Secretary of Commerce on January 30, 2009. The views of the Commission are contained in USITC Publication 4060 (January 2009), entitled *Barium Carbonate from China: Investigation No. 731–TA–1020 (Review).*

Issued: March 4, 2009.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9–5017 Filed 3–9–09; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–669]

In the Matter of Certain Optoelectronic Devices, Components Thereof, and Products Containing the Same; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on February 3, 2009, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Avago Technologies Fiber IP (Singapore) Pte. Ltd. of Singapore; Avago Technologies General IP (Singapore) Pte. Ltd. of Singapore; and Avago Technologies Ltd. of San Jose, California. Letters supplementing the Complaint were filed on February 12, 18, and 25, 2009. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain optoelectronic devices, components thereof, and products containing the same that infringe certain claims of U.S. Patent Nos. 5,359,447 and 5,761,229. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainants request that the Commission institute an investigation and, after the investigation, issue an exclusion order and a cease and desist order.

ADDRESSES: The complaint, except for any confidential information contained therein, is 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, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. 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 *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.*

FOR FURTHER INFORMATION CONTACT: Kecia J. Reynolds, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2580.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2008).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on March 3, 2009, *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 optoelectronic devices, components thereof, or products containing the same that infringe one or more of claims 1–6 of U.S. Patent No. 5,359,447 and claim 8 of U.S. Patent No. 5,761,229, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) 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 complainants are—

Avago Technologies Fiber IP, (Singapore) Pte. Ltd., 1 Yishun Avenue 7, Singapore 768923.

Avago Technologies General IP, (Singapore) Pte. Ltd., 1 Yishun Avenue 7, Singapore 768923.

Avago Technologies Ltd., 350 West Trimble Road, Building 90, San Jose, California 95131.

(b) The respondent is the following entity alleged to be in violation of section 337, and is the party upon which the complaint is to be served:

Emcore Corporation, 10420 Research Road SE., Albuquerque, New Mexico 87123.

(c) The Commission investigative attorney, party to this investigation, is Kecia J. Reynolds, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Honorable Paul J. Luckern, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondent in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission 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 the 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

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

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.

Issued: March 5, 2009.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9–5016 Filed 3–9–09; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. InBev NV/SA, InBev USA LLC, and Anheuser-Busch Companies, Inc.; Response to Public Comments on the Proposed Final Judgment

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), the United States hereby publishes the public comments received on the proposed Final Judgment in *United States* v. *InBev NV/SA, InBev USA LLC, and Anheuser-Busch Companies, Inc.*, Civil Action No. 1:08–cv–1965 and the response to the comments. On November 14, 2008, the United States filed a Complaint alleging that the proposed merger between InBev NV/SA (''InBev'') and Anheuser-Busch Companies, Inc. would violate Section 7 of the Clayton Act, 15 U.S.C. 18 by substantially reducing competition for the sale of beer in the Buffalo, Rochester, and Syracuse, New York, metropolitan areas. The proposed Final Judgment, filed at the same time as the Complaint, requires InBev to divest InBev USA LLC d/b/a Labatt USA and grant a perpetual license to the acquirer to brew and sell Labatt brand beer for consumption throughout the United States. Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), public comment was invited within the statutory 60-day comment period. Copies of the Complaint, proposed Final Judgment, Competitive Impact Statement, Public Comments, the United States' Response to the Comments, and other materials are currently available for inspection in Suite 1010 of the Antitrust Division, Department of Justice, 450 5th Street, NW., Washington, DC 20530, telephone: (202) 514–2481, on the Department of Justice's website (*http://www.usdoj.gov/atr*), and the Office of the Clerk of the United States District Court for the District of the District of Columbia, 333 Constitution Avenue, NW., Washington, DC 20001. Copies of any of these materials may be obtained upon request and payment of a copying fee set by Department of Justice Regulations.

J. Robert Kramer II,

Director of Operations, Antitrust Division.

The United States District Court for the District of Columbia

United States of America, Plaintiff, v. *InBev N.V./S.A., InBev USA LLC, and Anheuser-Busch Companies, Inc.* Defendants.

CASE NO: 1:08–cv–01965 (JR)

JUDGE: Robertson, James

Response of Plaintiff United States To *Public Comments On the Proposed Final Judgment*

Pursuant to the requirements of the Antitrust Procedures and Penalties Act (''APPA'' or ''Tunney Act''), 15 U.S.C. 16(b)–(h), the United States hereby files comments received from members of the public concerning the proposed Final Judgment in this case and the responses by the United States to these comments. The United States will move the Court for entry of the proposed Final Judgment after the public comments and this Response have been published in the **Federal Register**, pursuant to 15 U.S.C. 16(d).

The United States filed a civil antitrust Complaint under Section 15 of the Clayton Act, 15 U.S.C. 25, on November 14, 2008, alleging that the proposed merger of InBev N.V./S.A. (''InBev'') and Anheuser-Busch Companies, Inc. (''Anheuser-Busch'') would violate Section 7 of the Clayton Act, 15 U.S.C. 18. Simultaneously with the filing of the Complaint, the United States filed a proposed Final Judgment and a Hold Separate Stipulation and Order (''Stipulation'') signed by the United States and Defendants consenting to the entry of the proposed Final Judgment after compliance with the requirements of the Tunney Act.[1] Pursuant to those requirements, the United States filed a Competitive Impact Statement (''CIS'') in this Court on November 14, 2008; published the proposed Final Judgment and CIS in the **Federal Register** on November 25, 2008, *see* 73 FR 71682 (2008); and published summaries of the terms of the proposed Final Judgment and CIS, together with directions for the submission of written comments relating to the proposed Final Judgment, in *The Washington Post* for seven days beginning on December 7, 2008, and ending on December 13, 2008. The 60-day period for public comments ended on February 11, 2009, and the United States received four comments as described below and attached hereto.

I. The United States' Investigation And The Proposed Final Judgment

On July 13, 2008, InBev and Anheuser-Busch entered into an agreement, whereby InBev agreed to acquire all of the voting securities of Anheuser-Busch. The United States Department of Justice (the ''Department'') conducted an extensive, detailed investigation into the competitive effects of the proposed transaction. As part of this investigation, the Department obtained and considered more than 500,000 pages of material. The Department deposed officials of Anheuser-Busch and Inbev and interviewed beer wholesalers, retail customers, brewers, and other individuals with knowledge of the industry.

After conducting a detailed analysis of the acquisition, the Department concluded that the combination of InBev and Anheuser-Busch likely would substantially lessen competition for the sale of beer in the Buffalo, Rochester, and Syracuse, New York, areas. In contrast to InBev's small (less than 2 percent) share in most parts of the country, InBev's Labatt brand accounts for a significant portion of beer sales in the Buffalo, Rochester, and Syracuse areas. Anheuser-Busch beers and InBev's Labatt brand beers collectively account for over 40 percent of the total beer sales in the Buffalo, Rochester, and Syracuse areas.

As more fully explained in the CIS, the Stipulation and proposed Final Judgment in this case are designed to preserve competition in the sale of beer in the Buffalo, Rochester, and Syracuse areas by requiring InBev to divest InBev USA d/b/a Labatt USA (''IUSA'')[2] and all of the real and intellectual property rights required to brew, promote, market, distribute, and sell Labatt brand beer for consumption in the United

[1] The merger closed on November 14, 2008. In keeping with the United States' standard practice, neither the Stipulation nor the proposed Final Judgment prohibited the closing of the merger. *See* ABA Section of Antitrust Law, *Antitrust Law Developments* 406 (6th ed. 2007) (noting that ''[t]he Federal Trade Commission (as well as the Department of Justice) generally will permit the underlying transaction to close during the notice and comment period''). Such a prohibition could interfere with many time-sensitive deals and prevent or delay the realization of substantial efficiencies.

[2] The Divestiture Assets do not include certain assets of IUSA (e.g., books, records, and data) that relate solely to the sale of non-Labatt brand beer. *See* Proposed Final Judgment II.F(iii), (iv).