

Order No. 29 (April 2, 2024), *unreviewed* by Comm'n Notice (Apr. 26, 2024).

The ALJ held an evidentiary hearing on March 18–22, 2024. As of the hearing, Shoals asserted claims 1, 11–14, 18, 21, 23, and 24 of the '153 patent against the accused Voltage Trunk Bus, and Voltage sought adjudication of the Voltage Alternative Design ["AD"] Trunk Bus with respect to and claims 21 and 24 of the '153 patent. Shoals also asserted that its DI product practices claims 1 and 21 of the '153 patent for purposes of the DI requirement.

On August 30, 2024, the presiding ALJ issued the FID, finding that there has been a violation of section 337 in the importation into the United States, the sale for importation, and/or the sale in the United States after importation of certain photovoltaic connectors and components thereof with respect to certain claims of the '153 patent.

Specifically, the FID finds as to the '153 patent that: (1) the Voltage Trunk Bus and Voltage AD Trunk Bus have been imported into the United States, sold for importation, and/or sold within the United States after importation; (2) the Voltage Trunk Bus satisfies claims 1, 11–14, and 18; (3) the Voltage Trunk Bus does not satisfy claims 21, 23, and 24; (4) the Voltage AD Trunk Bus does not satisfy claims 1, 11–14, 18, 21, 23, and 24; (5) Shoals has satisfied the technical prong of the DI requirement; (6) Shoals has satisfied the economic prong of the DI requirement; and (7) Voltage has not shown that claims 1, 11–14, 18, 21, 23, and 24 are invalid under 35 U.S.C. 112 for lack of written description and/or indefiniteness.

On September 13, 2024, the presiding ALJ issued a Recommended Determination on Remedy and Bonding ("RD"). The RD recommends that the Commission issue a limited exclusion order against Voltage in the event it finds a violation of section 337 and impose a bond of 100 percent during the period of Presidential Review.

On October 15 and 16, 2024, Shoals Technologies and Voltage, respectively, filed a statement on the public interest pursuant to Commission Rule 210.50(a)(4), 19 CFR 210.50(a)(4). On October 15, 2024, Strata Clean Energy of Durham, N.C. filed a statement on the public interest in response to the Commission's **Federal Register** notice. *See* 89 FR 76869–70 (Sept. 19, 2024).

On September 16, 2024, Shoals filed a petition for review of the FID, arguing that the ALJ should not have considered respondents' redesign product, the Voltage AD Trunk Bus, as being within the scope of the investigation. On the same day, Respondents also filed a

petition for review of the following of the FID's findings: (1) the FID's construction of the term "aperture" recited in the asserted claims of the '153 patent; (2) the FID's finding that the asserted claims of the '153 patent are not invalid under 35 U.S.C. 112 for lack of written description and/or indefiniteness; (3) the FID's finding that Shoals has satisfied the domestic industry requirement with respect to an article protected by the '153 patent; and (4) the FID's determination to exclude the testimony of Voltage's invalidity expert. Also on the same day, OUII filed a petition for review of the following of the FID's findings: (1) the FID's construction of the "aperture" terms; (2) the FID's finding that Shoals' has satisfied the technical prong of the domestic industry requirement; and (3) the FID's determination to exclude the testimony of Voltage's invalidity expert.

On September 24, 2024, Shoals, Voltage and OUII each filed responses to the respective petitions for review.

On October 4, 2024, Voltage filed a notice of supplemental authority, and on October 7, 2024, Shoals filed a response to the notice. The Voltage Notice attached a copy of a September 30, 2024 decision from the U.S. Patent and Trademark Office's Patent Trial and Appeal Board denying a petition by Voltage to institute post-grant review proceedings. *See* Voltage Notice, Ex. A (*Voltage v. Shoals*, PGR2024–00022).

On November 13, 2024, the Commission determined to review the FID in part. *See* 89 FR 91424–27 (Nov. 19, 2024) (the "November 13, 2024 Commission Notice"). Specifically, the Commission reviewed the FID's: (1) construction of the "aperture" terms recited in the asserted claims of the '153 Patent; (2) finding that the accused products infringe the asserted claims of the '153 patent; (3) finding that the asserted claims of the '153 patent are not invalid under 35 U.S.C. 112 for lack of written description and/or indefiniteness; and (4) finding that Shoals has satisfied the domestic industry requirement of section 337, including the FID's findings concerning the technical prong and the economic prong. *Id.* at 91426. The Commission did not review the remaining findings in the FID.

In connection with its review, the Commission requested responses from the parties to certain question concerning the issues under review. *Id.* at 91426. The Commission also requested parties to the investigation, interested government agencies, and any other interested parties to file written submissions on the issues of remedy, the public interest, and bonding. *Id.*

On November 27, 2024, Shoals, Voltage and OUII each filed a response to the Commission's November 13, 2024 notice. On December 5, 2024, Shoals, Voltage and OUII each filed a respective reply.

Having reviewed the record of the investigation, including the FID, the parties' petitions for review and related submissions, and the parties' responses to the Commission's November 13, 2024 Notice, the Commission has determined to: (1) construe the "aperture" terms recited in the asserted claims of the '153 Patent such that the entire "drop line" recited in the claims means "the entire length of the underlying 'drop line/wire' within the undermold (and compression lug), just as the 'feeder cable' equates to the entire length of the underlying cable within the undermold (and compression lug)"; (2) reverse the FID's finding that the accused Voltage Trunk Bus satisfies claims 1, 11–14, and 18 of the '153 patent; and (3) reverse the FID's finding that Shoals' asserted domestic industry products satisfy the limitations of claims 1 and 21 of the '153 patent. The Commission takes no position on the other issues under review. Concurrent with this notice, the Commission has issued an opinion further explaining its determination.

The investigation is terminated with a finding of no violation of section 337.

The Commission's vote on this determination took place on January 14, 2025.

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.

Issued: January 14, 2025.

**Lisa Barton,**

*Secretary to the Commission.*

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**BILLING CODE 7020–02–P**

## **INTERNATIONAL TRADE COMMISSION**

**[Investigation No. 337–TA–1384]**

### **Certain Passive Optical Network Equipment; Notice of Request for Submissions on the Public Interest**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that on December 19, 2024, the presiding administrative law judge ("ALJ") issued

an Initial Determination on Violation of Section 337. The ALJ also issued a Recommended Determination on remedy and bonding should a violation be found in the above-captioned investigation. The Commission is soliciting submissions on public interest issues raised by the recommended relief should the Commission find a violation. This notice is soliciting comments from the public and interested government agencies only.

**FOR FURTHER INFORMATION CONTACT:** Lynde Herzbach, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-3228. 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](mailto: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 on (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** Section 337 of the Tariff Act of 1930 provides that, if the Commission finds a violation, it shall exclude the articles concerned from the United States unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry. (19 U.S.C. 1337(d)(1)).

The Commission is soliciting submissions on public interest issues raised by the recommended relief should the Commission find a violation, specifically, a general exclusion order directed to certain passive optical network equipment imported, sold for importation, and/or sold after importation that infringe claims 1 and 12-14 of U.S. Patent No. 7,333,511 or claims 1 and 3 of U.S. Patent No. 7,558,260. Parties are to file public interest submissions pursuant to 19 CFR 210.50(a)(4).

The Commission is interested in further development of the record on the public interest in this investigation. Accordingly, members of the public and interested government agencies are invited to file submissions of no more than five (5) pages, inclusive of

attachments, concerning the public interest in light of the ALJ's Recommended Determination on Remedy and Bonding issued in this investigation on December 19, 2024. Comments should address whether issuance of the recommended remedial orders in this investigation, should the Commission find a violation, would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

- (i) explain how the articles potentially subject to the recommended remedial orders are used in the United States;
- (ii) identify any public health, safety, or welfare concerns in the United States relating to the recommended orders;
- (iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;
- (iv) indicate whether complainant, complainant's licensees, and/or third-party suppliers have the capacity to replace the volume of articles potentially subject to the recommended orders within a commercially reasonable time; and
- (v) explain how the recommended orders would impact consumers in the United States.

Written submissions must be filed no later than by close of business on February 11, 2025.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. The Commission's paper filing requirements in 19 CFR 210.4(f) are currently waived. 85 FR 15798 (Mar. 19, 2020). Submissions should refer to the investigation number ("Inv. No. 337-TA-1384") in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, [https://www.usitc.gov/secretary/fed\\_reg\\_notices/rules/handbook\\_on\\_electronic\\_filing.pdf](https://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf)). Persons with questions regarding filing should contact the Secretary (202-205-2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment by marking each document with a header indicating that the document contains confidential information. This marking will be deemed to satisfy the request procedure set forth in Rules 201.6(b) and

210.5(e)(2) (19 CFR 201.6(b) & 210.5(e)(2)). Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. Any non-party wishing to submit comments containing confidential information must serve those comments on the parties to the investigation pursuant to the applicable Administrative Protective Order. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing and must be served in accordance with Commission Rule 210.4(f)(7)(ii)(A) (19 CFR 210.4(f)(7)(ii)(A)). All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. appendix 3; or (ii) by U.S. Government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection on EDIS.

This action is taken under the authority of 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.  
Issued: January 14, 2025.

**Lisa Barton,**

*Secretary to the Commission.*

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## DEPARTMENT OF JUSTICE

### Antitrust Division

#### **United States of America v. XCL Resources Holdings, LLC, Verdun Oil Company II, LLC, and EP Energy LLC; Proposed Final Judgment and Competitive Impact Statement**

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the District of