

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN HIGH-DENSITY FIBER OPTIC
EQUIPMENT AND COMPONENTS
THEREOF**

**Investigation No. 337-TA-1194
(Enforcement Proceeding)**

NOTICE OF INSTITUTION OF FORMAL ENFORCEMENT PROCEEDING

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has instituted a formal enforcement proceeding relating to the General Exclusion Order (“GEO”) and Cease and Desist Order (“CDO”) issued against Panduit Corporation (“Panduit”) on August 3, 2021, in the above-referenced investigation.

FOR FURTHER INFORMATION CONTACT: Cathy Chen, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, D.C. 20436, telephone 202-205-2392. 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. 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: The Commission instituted the original investigation on March 24, 2020, based on a complaint filed on behalf of Corning Optical Communications LLC (“Corning”) of Charlotte, North Carolina. 85 FR 16653 (Mar. 24, 2020). The complaint, as supplemented, alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain high-density fiber optic equipment and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 9,020,320 (“the ’320 patent”); 10,120,153 (“the ’153 patent”); 8,712,206 (“the ’206 patent”); 10,094,996; and 10,444,456 (“the ’456 patent”). *Id.* The Commission’s notice of investigation named numerous respondents including Panduit of Tinley, Illinois. *Id.* The notice of investigation also named the Office of Unfair Import Investigations (“OUII”) as a party. *Id.* at 16654.

The full investigation background is in the final termination notice. 86 FR 43564-65 (Aug. 9, 2021).

On August 3, 2021, the Commission found, *inter alia*, that Panduit violated section 337 with respect to claims 1 and 3 of the '320 patent; claims 11, 12, 14-16, 19, 21, 27, and 28 of the '456 patent; and claims 9, 16, 23, and 26 of the '153 patent. *Id.* at 43565. Specifically, the Commission found that Panduit's imported articles were used by customers to directly infringe the asserted claims of the '320, '456, and '153 patents at Panduit's inducement. *Id.* The Commission issued, *inter alia*, a GEO and a CDO against Panduit and determined that a bond as set forth in the Orders was required during the period of Presidential review. 19 U.S.C. 1337(j)(3).

On November 24, 2021, Corning filed a complaint requesting that the Commission institute an enforcement proceeding under Commission Rule 210.75, 19 CFR 210.75, to investigate alleged violations of the GEO and CDO by Panduit.

Having examined the enforcement complaint and the supporting documents, the Commission has determined to institute a formal enforcement proceeding, pursuant to 19 C.F.R. 210.75(a), to determine whether violations of the GEO and CDO, issued on August 3, 2021, in the original investigation have occurred and to determine what, if any, enforcement measures are appropriate. The named respondent is Panduit. OUII is also named as a party. In the Order issued concurrently herewith, the Commission has referred this enforcement proceeding to the chief administrative law judge for designation of a presiding administrative law judge to conduct any necessary proceedings, issue an Enforcement Initial Determination, and make a recommendation on appropriate enforcement measures, if any.

The Commission vote for this determination took place on December 28, 2021.

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.



Secretary to the Commission

Issued: December 28, 2021

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **INSTITUTION OF INVESTIGATION** has been served via EDIS upon the Commission Investigative Attorney, **Lisa Murray, Esq.**, and the following parties as indicated, on **December 28, 2021**.



Lisa R. Barton, Secretary
U.S. International Trade Commission
500 E Street, SW, Room 112
Washington, DC 20436

Complainant:

Corning Optical Communications LLC
4200 Corning Place
Charlotte, NC 28216

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: Email Notification of Availability for Download

On Behalf of Complainant Corning Optical Communications LLC:

John Thorne, Esq.
KELLOGG, HANSEN, TODD, FIGEL & FREDERICK, P.L.L.C.
1615 M. Street, NW, Suite 400
Washington, DC 20036
Email: jthorne@kellogghansen.com

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: Email Notification of Availability for Download

Respondent:

Panduit Corporation
18900 Panduit Drive
Tinley, IL 60487

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: Service to Be Completed by Complainant

Government Agencies:

Lynda Marshall
International Section, Antitrust Division
U.S. Department of Justice
450 5th Street NW, Room 11000

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail

**CERTAIN HIGH-DENSITY FIBER OPTIC EQUIPMENT
AND COMPONENTS THEREOF**

**Inv. No. 337-TA-1194
(Enforcement)**

PUBLIC CERTIFICATE OF SERVICE

Washington, DC 20530

Other: Email Notification
of Availability for Download

Dax Terrill, Chief
Exclusion Order Enforcement Branch
U.S. Customs and Border Protection
Regulations and Rulings
90 K Street NE – 10th Floor
Washington, DC 20229

Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: Email Notification
of Availability for Download

Elizabeth Kraus, Deputy Director
International Antitrust, Office of International Affairs
Federal Trade Commission
600 Pennsylvania Avenue, Room 498
Washington, DC 20580

Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: Email Notification
of Availability for Download

Dale D. Berkley, Ph.D., J.D.
Office of the General Counsel, PHD, NIH Branch
National Institutes of Health
31 Center Drive
Bldg. 31, Rm. 47
Bethesda, MD 20892

Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: Email Notification
of Availability for Download



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

December 28, 2021

Corning Optical Communications LLC
4200 Corning Place
Charlotte, NC 28216

**Re: Certain High-Density Fiber Optic Equipment and Components Thereof;
Inv. No. 337-TA-1194 (Enforcement)**

Dear Sir/Madam:

This letter is to advise you that the U.S. International Trade Commission has instituted an enforcement proceeding pursuant to Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). A copy of the Commission's notice of investigation is enclosed. Also enclosed is the Section 337 Mediation Program brochure. After reviewing the brochure, please sign and return the enclosed certification of receipt.

Sincerely,

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

Lisa R. Barton
Secretary to the Commission

Enclosures:

1. Notice of Investigation
2. Publication Regarding the Section 337 Mediation Program
3. Certification of Receipt of Mediation Materials



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

December 28, 2021

John Thorne, Esq.
Kellogg, Hansen, Todd, Figel & Frederick, P.L.L.C
1615 M Street NW, Suite 400
Washington, DC 20036

**Re: Certain High-Density Fiber Optic Equipment and Components Thereof;
Inv. No. 337-TA-1194 (Enforcement)**

Dear John Thorne, Esq.:

This letter is to advise you that the U.S. International Trade Commission has instituted an enforcement proceeding pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). A copy of the Commission's notice of investigation is enclosed. Also enclosed is the Section 337 Mediation Program brochure. After reviewing the brochure, please sign and return the enclosed certification of receipt.

Sincerely,

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Lisa R. Barton
Secretary to the Commission

Enclosures:

1. Notice of Investigation
2. Publication Regarding the Section 337 Mediation Program
3. Certification of Receipt of Mediation Materials



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

December 28, 2021

Panduit Corporation
18900 Panduit Drive
Tinley Park, IL 60487

**Re: Certain High-Density Fiber Optic Equipment and Components Thereof;
Inv. No. 337-TA-1194 (Enforcement)**

Dear Sir/Madam:

This letter is to advise you that the United States International Trade Commission has instituted an enforcement proceeding pursuant to Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). **Panduit Corporation** is a named respondent in this investigation.

We are hereby serving you with a copy of the Complaint and the Notice of Investigation issued in this matter. Enclosed is a copy of the Code of Federal Regulations. Also enclosed is a the Section 337 Mediation Program brochure. After reviewing this brochure, please sign and return the enclosed certification of receipt.

You are advised that pursuant to Commission rule 210.75, 19 C.F.R. § 210.75, you have fifteen (15) days after the date of receipt of this letter to file a response to the complaint. Any such response should fully advise the Commission as to the nature of any defense and shall admit or deny each allegation of the complaint specifically and in detail unless you are without knowledge, in which case your answer should so state and the statement shall operate as denial. Allegations of fact not denied or controverted shall be deemed admitted. Matters alleged as affirmative defenses shall be separately stated and numbered and shall, in the absence of a reply, be deemed uncontroverted.

Failure to file and serve on all parties to the formal enforcement proceeding a response to the complaint within the time specified and, in the manner prescribed herein, shall authorize the Commission, in its discretion, to find the facts alleged in the complaint to be true and to take



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

such action as may be appropriate without notice or hearing, or, in its discretion, to proceed without notice to take evidence on the allegations or charges set forth in the complaint. The presiding administrative law judge may permit late filing of a response for good cause shown.

Sincerely,

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

Lisa R. Barton
Secretary to the Commission

Enclosures:

1. Complaint
2. Notice of Investigation
3. Code of Federal Regulation
4. Publication Regarding the Section 337 Mediation Program
5. Certification of Receipt of Mediation Material



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

December 28, 2021

Lynda Marshall
International Section
Antitrust Division
U.S. Dept of Justice
450 5th Street NW, Room 11000
Washington, DC 20530

**Re: Certain High-Density Fiber Optic Equipment and Components Thereof;
Inv. No. 337-TA-1194 (Enforcement)**

Dear Lynda Marshall:

This letter is to advise you that the United States International Trade Commission has instituted an enforcement proceeding pursuant to Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). A copy of the Notice of Investigation is enclosed. Non-confidential copies of the Complaint and any supplements filed in the investigation will be provided upon request. Requests should be directed to Docket Services at (202) 205-1802.

If you have any questions concerning this investigation, please contact the Commission Investigative Attorney whose name and telephone number appear in the enclosed Notice.

Sincerely,

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

Lisa R. Barton
Secretary to the Commission

Enclosure:

1. Notice of Investigation



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

December 28, 2021

Dax Terrill, Chief
Exclusion Order Enforcement Branch
U.S. Customs and Border Protection
Regulations and Rulings
90 K Street NE – 10th Floor
Washington, DC 20229-1177

**Re: Certain High-Density Fiber Optic Equipment and Components Thereof;
Inv. No. 337-TA-1194 (Enforcement)**

Dear Dax Terrill:

This letter is to advise you that the United States International Trade Commission has instituted an enforcement proceeding pursuant to Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). A copy of the Notice of Investigation is enclosed. Non-confidential copies of the Complaint and any supplements filed in the investigation will be provided upon request. Requests should be directed to Docket Services at (202) 205-1802.

If you have any questions concerning this investigation, please contact the Commission Investigative Attorney whose name and telephone number appear in the enclosed Notice.

Sincerely,

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Lisa R. Barton
Secretary to the Commission

Enclosure:

1. Notice of Investigation



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

December 28, 2021

Elizabeth Kraus, Deputy Director
International Antitrust, Office of
International Affairs
Federal Trade Commission
600 Pennsylvania Avenue, Room 498
Washington, DC 20580

**Re: Certain High-Density Fiber Optic Equipment and Components Thereof;
Inv. No. 337-TA-1194 (Enforcement)**

Dear Elizabeth. Kraus:

This letter is to advise you that the United States International Trade Commission has instituted an enforcement proceeding pursuant to Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). A copy of the Notice of Investigation is enclosed. Non-confidential copies of the Complaint and any supplements filed in the investigation will be provided upon request. Requests should be directed to Docket Services at (202) 205-1802.

If you have any questions concerning this investigation, please contact the Commission Investigative Attorney whose name and telephone number appear in the enclosed Notice.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa R. Barton". The signature is fluid and cursive, with the first name "Lisa" being the most prominent.

Lisa R. Barton
Secretary to the Commission

Enclosure:

1. Notice of Investigation



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

December 28, 2021

Dale D. Berkley, Ph, D., J.D.
Office of the General Counsel, PHD, NIH Branch
National Institutes of Health
31 Center Drive
Bldg. 31, Rm 47
Bethesda, MD 20892

**Re: Certain High-Density Fiber Optic Equipment and Components Thereof;
Inv. No. 337-TA-1194 (Enforcement)**

Dear Dale D. Berkley:

This letter is to advise you that the United States International Trade Commission has instituted an enforcement proceeding pursuant to Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). A copy of the Notice of Investigation is enclosed. Non-confidential copies of the Complaint and any supplements filed in the investigation will be provided upon request. Requests should be directed to Docket Services at (202) 205-1802.

If you have any questions concerning this investigation, please contact the Commission Investigative Attorney whose name and telephone number appear in the enclosed Notice.

Sincerely,

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Lisa R. Barton
Secretary to the Commission

Enclosure:

1. Notice of Investigation