

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

In the matter of
CERTAIN RUBBER RESINS AND
PROCESSES FOR MANUFACTURING SAME

Investigation
No. 337-TA-_____

**COMPLAINANT SI GROUP, INC.'S
STATEMENT OF PUBLIC INTEREST**

Complainant SI Group, Inc., files this Statement of Public Interest pursuant to Commission Rule 210.08(b), 19 C.F.R. § 210.08(b), in support of its Complaint filed on May 21, 2012. As discussed below, exclusion of the rubber resins (including tackifiers) at issue, and the processes for manufacturing them, would not have an adverse effect on the public interest or competitive conditions in the United States.

i. Explain how the articles potentially subject to the orders are used in the United States.

Tackifiers are chemical compounds used in rubber formulations to increase the tackiness of the surface of the rubber compound. They are particularly useful and necessary in the manufacture of tires. Tires and many rubber goods are manufactured by plying up sheets of rubber compounds. The surface of the rubber sheets must be tacky to facilitate the initial layering of rubber sheets, enabling the formation of a rubbery network across the contact zone. In addition, the surface requires high bond strength to avoid delaminating and blistering during vulcanization. Tackifiers provide these properties in the manufacture of tires. Other rubber resins at issue are useful for curing and reinforcing other rubber products, including tires. The accused products are therefore rubber resins (including tackifiers) that are imported into the United States and either sold to distributors or sold directly to end-users, the majority of whom are tire manufacturers.

ii. Identify any public health, safety, or welfare concerns in the United States relating to the potential orders.

The issuance of an exclusion order and cease and desist orders would have no adverse impact upon the public health, safety, or welfare in the United States. Unlike the products in cases in which the Commission has denied relief, the products at issue here are not uniquely essential for public health, scientific research benefiting the public, or a congressionally mandated public policy. *See Certain Fluidized Supporting Apparatus and Components Thereof*, 1984 ITC LEXIS 256, at *35-37 (denying temporary exclusion order because the domestic producer was found to be unable to satisfy demand for hospital beds for burn patients within a reasonable time and there were no available comparable substitutes); *Certain Inclined-Field Acceleration Tubes and Components Thereof*, Inv. No. 337-TA-67, USITC Pub. 1119 (Dec. 1980), Comm'n Op. at 30 (finding that the infringing tubes were "essential" to nuclear energy "research programs affecting the public health and welfare"); *Certain Automatic Crankpin Grinders*, Inv. No. 337-TA-60, USITC Pub. 1022 (Dec. 1979), Comm'n Op. at 18-21 (denying relief because the domestic producer was found to be unable to satisfy demand for automotive parts needed to manufacture fuel efficient automobiles on the timetable mandated by Congress).

In fact, the public interest favors exclusion given that the rubber resins (including tackifiers) at issue are used in the manufacturing of *tires*, where safety is paramount and quality control is critical, and where Respondents' products are not subject to SI Group's quality control and safety standards. *Cf. Certain Energy Drink Products*, Inv. No. 337-TA-678, 2011 WL 7628060, at *12 (ITC 2011) (general exclusion order found to be in the public interest, in view of *inter alia* "the fact that the infringing products are not subject to Red Bull's quality control and safety standards"); *In the Matter of Certain Lighters*, Inv. No. 337-TA-575, 2009 WL 4430289, at *8 (ITC 2009) (noting Complainant Zippo's argument that "Zippo lighters are proven to be

safe, high quality products as opposed to the poor quality of lighters produced abroad which, given their purpose, can be a serious health and safety hazard,” and granting exclusion order).

Moreover, the public interest favors the protection of U.S. intellectual property rights by excluding infringing imports. *See, e.g., Certain Two-Handle Centerset Faucets and Escutcheons, and Components Thereof*, Inv. No. 337-TA-422, USITC Pub. 3332 (July 2000) Comm’n Op. at 9; *Certain Toothbrushes and the Packaging Thereof*, Inv. No. 337-TA-391, USITC Pub. 3068 (Oct. 1997), Comm’n Op. at 6.

- iii. **Identify like or directly competitive articles that Complainant, Complainant's licensees, or third parties make which could replace the subject articles if they were to be excluded.**

There are other companies that sell, in the United States, rubber resins (including tackifiers) that compete with the accused products. Companies that sell such products include SI Group itself as well as its competitor Durez Corp.

- iv. **Indicate whether Complainant, Complainant's licensees, and/or third party suppliers have the capacity to replace the volume of products potentially subject to an exclusion order and cease and desist order within a commercially reasonable time.**

There is no question that U.S. demand for the rubber resins (including tackifiers) at issue can be met by entities other than the proposed respondents. Indeed, until now, that demand has been more than adequately met by SI Group and Durez, among others. Where the products in question are abundantly available from legitimate, fairly traded sources, the public interest does not bar issuance of Commission remedial orders. *See, e.g., Certain Agricultural Tractors Under 50 Power Take-off Horsepower*, Inv. No. 337-TA-380, USITC Pub. 3026 (Mar. 1997), Comm’n Op. at 34 (“[W]e conclude that the [general] exclusion order and cease and desist orders will have limited economic impact in the United States and that there will continue to be considerable competition in the U.S. market for small tractors—including the market for used tractors—even

if infringing KBT tractors are excluded from the market entirely.”); *Toothbrushes and Packaging*, Comm’n Op. at 6 (“[T]he U.S. market for toothbrushes of the type at issue could be supplied by complainant or by noninfringing alternatives, and toothbrushes are not the type of product that have in the past raised public interest concerns (such as, for example, drugs or medical devices).”); *Certain Optical Disk Controller Chips and Chipsets and Prods. Containing Same, Including DVD Players and PC Optical Storage Devices*, Inv. No. 337-TA 506, USITC Pub. 3935 (July 2007), Comm’n Op. at 61 (issuing exclusion order because there was “no evidence that the U.S. demand for the covered products cannot be met by other entities, including the Complainants” and nothing in the record indicated that consumers would “incur undue burdens if they are denied continued access to infringing products”). Consequently, there is no indication that excluding the proposed respondents’ accused products, related components, and products containing same will result in unmet demand which would, in turn, lead to other undesirable effects on the United States economy.

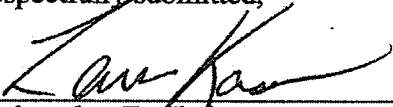
v. State how the requested remedial orders would impact consumers.

Consumers would not be adversely impacted by any remedial orders because an ample supply of competing product will continue to be available on the market.

Dated: May 21, 2012

Respectfully submitted,

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

In the matter of
CERTAIN RUBBER RESINS AND
PROCESSES FOR MANUFACTURING SAME

Investigation
No. 337-TA-_____

COMPLAINT UNDER SECTION 337 OF
THE TARIFF ACT OF 1930, AS AMENDED

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LIST OF EXHIBITS

- Ex. A Harmonized Tariff Schedules of the United States for the accused rubber resins and rubber resins.
- Ex. B NYS Department of State Division of Corporations Entity Information for SI Group, Inc., as of February 10, 2012.
- Ex. C Certification re Attached Certificate of Incorporation for Sino Legend Holding Group Inc., October 13, 2006.
- Ex. D Notice of Change of Registered Agent for Sino Legend Holding Group Inc., June 24, 2008.
- Ex. E Page from Administration of Industry and Commerce (AIC) files of Sino Legend (Zhangjiagang) Chemical Co., Ltd. , November 6, 2009, with translation.
- Ex. F Pages from AIC files of Sino Legend, March 31, 2012, with translation.
- Ex. G Application for Establishment of an Enterprise with Foreign Investment in the People's Republic of China, August 10, 2006, and Certificate of Approval for same (excerpts), with translation.
- Ex. H Assignment (Resolution from Former Shareholder of Sino Legend (Zhangjiagang) Chemical Co., Ltd.), January 18, 2008.
- Ex. I Certificate of Incorporation for HongKong Sino Legend Group Ltd., September 5, 2007.
- Ex. J Memorandum Articles of Incorporation for HongKong Sino Legend Group Ltd., August 29, 2007.
- Ex. K HongKong Sino Legend Group Ltd. Notification of First Secretary and Director, September 5, 2007.
- Ex. L Notification of Situation of Registered Office for HongKong Sino Legend Group Ltd., September 5, 2007, with translation.
- Ex. M Annual Return for HongKong Sino Legend Group Ltd., September 5, 2008 (extract), with translation.
- Ex. N Annual Return of HongKong Sino Legend Group Ltd., May 9, 2011.
- Ex. O HongKong Sino Legend Group Ltd - Change of Address, September 5, 2011.
- Ex. P Board Resolution of Sino Legend (Zhangjiagang) Chemical Co., Ltd., January 18, 2008.
- Ex. Q Share Transfer Agreement, January 18, 2008.
- Ex. R Sino Legend Holding Group Limited Certificate of Incorporation, May 22, 2009.
- Ex. S Sino Legend Holding Group Limited Address Change Notification, May 22, 2011, with translation.
- Ex. T Sino Legend Holding Group Limited Annual Return (with a list of members), May 22, 2011, with translation.
- Ex. U Certificate of Incorporation for Red Avenue Chemical Co. Ltd., June 17, 2003.

- Ex. V Certification by Red Avenue Chemical Co. Ltd. of Share Ownership, February 10, 2004, with Canadian Permanent Resident Card and Chinese passport attached.
- Ex. W Notice of Change of Registered Agent for Red Avenue Chemical Co., Ltd., June 24, 2008.
- Ex. X Change of Company Name or Add-Change A Foreign Character Name for Red Avenue Chemical Co., Ltd., November 13, 2007.
- Ex. Y Website for Red Avenue Group, last visited March 30, 2012.
- Ex. Z Red Avenue Foundation Limited Incorporation Form (Company Not Limited by Shares), December 28, 2011.
- Ex. AA HongKong Sino Legend Group Ltd. - Notification of Change of Particulars of Secretary and Director, May 9, 2011.
- Ex. BB NYS Department of State Division of Corporations Entity Information for RedAvenue Chemical Corporation of America, as of February 10, 2012.
- Ex. CC White Pages listing for Thomas Crumlish.
- Ex. DD Bruce Meyer, *Sino Legend seeking tire customers beyond Asia*, Rubber & Plastics News, January 9, 2012.
- Ex. EE Precision Measurement International LLC Articles of Organization, October 20, 2004.
- Ex. FF Timothy E. Banach, L. Scott Howard and Mark Belill, *New tackifiers provide improved performance*, Schenectady International Inc., Rubber & Plastics News, February 20, 2006.
- Ex. GG March 2005 Data Sheet for Dow Liquid Separations DOWEX Ion Exchange Resins.
- Ex. HH Preventing Phenol Formaldehyde Runaway Reactions – Georgia Pacific Case Study – U.S. EPA (August 1999).
- Ex. II AIC files of Shanghai Lunsai International Trading Co., Ltd, with translation.
- Ex. JJ Chinese Patent Application No. 200810041551.7, dated August 11, 2008, published as Pub. No. CN 101338013A on January 7, 2009, entitled “Improved process for producing alkylphenols thermoplastic resin,” by Yang Quanhai, patented to Sino Legend (Zhangjiegang) Chemicals Co., Ltd., with translation.
- Ex. KK *Sino Legend announces North American and European expansion plans*, Rubber World, December 27, 2011.
- Ex. LL *Chinese resin maker develops global markets*, European Rubber Journal, March 2012.
- Ex. MM Precision Measurement International Website, May 18, 2012.
- Ex. NN Complaint (2010) Hu Er Zhong Min Wu (Zhi) Chu Zi No. 38, February 8, 2010, with translation.
- Ex. OO Complaint (2010) Hu Er Zhong Min Wu (Zhi) Chu Zi No.39, February 8, 2010, with translation.
- Ex. PP Complaint (2011) Hu Er Zhong Min Wu (Zhi) Chu Zi No.50, March 24, 2011, with translation.
- Ex. QQ Complaint (2011) Hu Er Zhong Min Wu (Zhi) Chu Zi No.48, March 24, 2011, with translation.

- Conf. Ex. A SI Group Tackifier Quantities Sold and Gross Sales for 2011 in the United States.
- Conf. Ex. B SI Group Sales and Quantities of Rubber Resins Made in Rotterdam Junction for 2011.
- Conf. Ex. C SI Group List of Major Customers for Rubber Resins.
- Conf. Ex. D Confidential Narrative of Certain Aspects of Complainant SI Group Inc.'s Trade Secrets.
- Conf. Ex. E SI Group Component Specification, May 4, 2008.
- Conf. Ex. F Packing list, July 27, 2007.
- Conf. Ex. G 2005 Product Data Sheet.
- Conf. Ex. H SI Group Statement re the Scope of the Trade Secret, May 11, 2011, with translation.
- Conf. Ex. I Shanghai Science and Technology Consulting Service Center (2009) Jian Zi No.04 (Novelty of SI Group Trade Secret), dated April 20, 2009, with translation.
- Conf. Ex. J Shanghai Science & Technology Consulting Service Center, "Regarding Appraisal Conclusions of Technical Appraisal Commissioned by Economic Crime Investigation Department of Shanghai Public Security Bureau" - Summary of Reports, October 10, 2009, with translation.
- Conf. Ex. K SI Group (Shanghai) Co., Ltd, Document and Materials Control Procedure, March 12, 2007, with translation.
- Conf. Ex. L SI Group (Shanghai) Co., Ltd. Labor Contract executed June 22, 2004 by Xu, with translation.
- Conf. Ex. M Jack Xu Confidentiality Agreement, executed March 23, 2004, with translation.
- Conf. Ex. N Supplementary Agreement, executed April 12, 2004 by Xu, with translation.
- Conf. Ex. O SI Group China Employee Manual, Effective on January 1, 2007, with translation of excerpts thereof.
- Conf. Ex. P Records and Statements of Receipt of the SI Group Handbook for Chinese Staff, executed March 20, 2007 by Xu, with translation.
- Conf. Ex. Q SI Group SP-1068 Chinese Manufacturing Records for 2004.
- Conf. Ex. R Confidential Narrative of Resin Analysis by SI Group.
- Conf. Ex. S China export record for Sino Legend 2010 importation.
- Conf. Ex. T U.S. import record for importation of Sino Legend product in April 2010, Bill of Lading No. AMIGS03L040569.
- Conf. Ex. U Confidential Declaration of Frank Hart, Senior Account Manager, SI Group, May 15, 2012.
- Conf. Ex. V U.S. import record for importation of Sino Legend product in April 2012, Bill of Lading No. PRIM26200280.

- Conf. Ex. W U.S. import record for importation of Sino Legend product in April 2012, Bill of Lading No. MSCUE2986833.
- Conf. Ex. X Letter from the U.S. Consulate General to the Foreign Affairs Office of Shanghai Municipal People's Government, sent June 18, 2010.
- Conf. Ex. Y Confidential Narrative of Domestic Industry Information by SI Group.
- Conf. Ex. Z Calculation of Ratio of Resins Identified in Complaint to All Products Manufactured at Rotterdam Junction in 2011.
- Conf. Ex. AA SI Group Capital Expenditures in Rotterdam Junction and Niskayuna for 1968-2011.
- Conf. Ex. BB SI Group Quarterly Headcount for the United States, 2009-2012Q1.

I. INTRODUCTION

1. Complainant SI Group, Inc., files this Complaint pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 ("Section 337"), arising from the misappropriation of SI Group trade secrets by the proposed Respondents and the unlawful importation into the United States, the sale for importation and/or the sale within the United States after importation, of certain rubber resins,¹ including tackifier ("tackifiers"), made using SI Group trade secrets.

2. Tackifiers are chemical compounds used in rubber formulations to increase the tackiness of the surface of the rubber compound. They are particularly useful and necessary in the manufacture of tires. Tires and many rubber goods are manufactured by plying up sheets of rubber compounds. The surface of the rubber sheets must be tacky to facilitate the initial layering of rubber sheets, enabling the formation of a rubbery network across the contact zone. In addition, the surface requires high bond strength to avoid delaminating and blistering during vulcanization. This attribute called "building tack" is essential in the rubber industry, particularly with increased use of synthetic rubbers, which are inherently less tacky than natural rubber.

3. SI Group has been producing tackifier for tire applications since the 1960s, and for the past several decades it has been the world leader in this technology.

4. It took SI Group well over 25 years, as well as substantial money, effort and other resources, to develop the tackifier manufacturing process for making its highly successful

¹ A resin is a natural or synthetic compound which begins in a highly viscous state and hardens with treatment. A resin is typically soluble in alcohol, but not in water. Natural resin comes from plants. A classic example is pine sap, which is very viscous, but it hardens over time. For example, amber is fossilized plant resin. Plant resin can be clear to dark brown in color. Polymers made with "resins" are typically made with synthetic resin, which is cheaper and easier to refine. Synthetic resin is usually more stable, predictable, and uniform as well, since it is made under controlled conditions without the possibility of the introduction of impurities.

SP-1068 tackifier resin (the "SP-1068 Process"), as well as other manufacturing processes based on the same basic process as SP-1068 Process (hereinafter, the "SP-1068 Related Processes").

The SP-1068 Related Processes are similar to the SP-1068 Process, but differ as appropriate for making other tackifiers that accommodate certain customer specifications such as viscosity or melt point, while nevertheless providing a SP-1068 type product.

5. SI Group owns the intellectual property embodied in or relating to the SP-1068 Process (the "SP-1068 Technology"), as well as the intellectual property embodied in the other SP-1068 Related Processes (the "SP-1068 Related Technology").

6. SI Group took and continues to take strict and vigorous measures to maintain its trade secrets. These include, for example, confidence measures on company documents and materials relating to its processes and technologies, detailed document and materials control procedures worldwide (including at its plant in Shanghai, China), multiple contracts with employees imposing confidentiality and non-disclosure requirements, and employee policies, handbooks, and training about maintaining SI Group trade secrets. (*See* Section VI.D). SI Group's measures also include exit interviews to remind employees of their continuing obligations of secrecy. (*See* ¶ 97). SI Group has also immediately and diligently pursued available legal remedies upon learning of misappropriation. (*See* Section IX).

7. SI Group sells a large quantity of SP-1068 and other tackifiers made by SP-1068 Related Processes in the United States, and derives substantial revenue from domestic sales of these products. (Conf. Ex. A). SI Group has a major rubber resin manufacturing plant in Rotterdam Junction, New York, which produces these tackifiers and provides SI Group with significant sales revenue. (Conf. Ex. B).

8. Since these tackifiers are oil soluble and compatible with various synthetic rubbers, they are ideally suited for plied-up construction of tires and mechanical rubber goods which require high tack levels. They are used primarily to produce tack in the underside and the skin coat of tires.

9. Certain SP-1068 Technology comprises trade secret information regarding the SP-1068 Process that provided SI Group significant economic value and competitive advantage from not being generally known to other people or readily ascertainable by proper means (the "SP-1068 Trade Secrets").

10. The SP-1068 Trade Secrets include or relate to: (a) innovative SP-1068 tackifier manufacturing processes, materials, intermediates, and related control parameters; and (b) tackifier manufacturing equipment, and other equipment used for the SP-1068 Process.

11. The SP-1068 Related Technology likewise comprises trade secret information regarding the SP-1068 Related Processes that provided SI Group significant economic value and competitive advantage from not being generally known to other people or readily ascertainable by proper means (the "SP 1068 Related Trade Secrets").

12. The SP 1068 Related Trade Secrets include or relate to: (a) innovative tackifier manufacturing processes, materials, intermediates, and related control parameters; and (b) tackifier manufacturing equipment and other equipment, used for the SP-1068 Related Processes.

13. In addition, through significant investments of time, money and effort, SI Group developed and owns the manufacturing processes for making several other rubber resin products, including the SP-1045 Process for making SP-1045 rubber curing resins and other processes for making rubber reinforcing resins. The SI Group rubber curing and reinforcing resins and the

processes for making them are collectively referred to herein as the "C&R Rubber Resins" and "C&R Rubber Resin Processes," respectively.

14. C&R Rubber Resin Processes are based on different reactants, manufacturing parameters, technology and trade secrets from the SP-1068 Related Processes and the processes of SI Group's competitors.

15. SI Group owns the intellectual property embodied in or relating to the C&R Rubber Resin Processes (the "C&R Rubber Resin Technology"). The C&R Rubber Resin Technology comprises trade secret information regarding the C&R Rubber Resin Processes that provided SI Group significant economic value and competitive advantage from not being generally known to other people or readily ascertainable by proper means (the "C&R Trade Secrets").

16. The SP-1068 Trade Secrets, the SP 1068 Related Trade Secrets and the C&R Trade Secrets misappropriated by Sino Legend are collectively referred to herein as the "SI Group Trade Secrets."

17. The SI Group Trade Secrets, and particularly the SP-1068 Related Trade Secrets, have been and are being misappropriated by Respondents Sino Legend (Zhangjiagang) Chemical Co., Ltd., Sino Legend Holding Group, Inc., Sino Legend Holding Group Limited, HongKong Sino Legend Group Ltd., Ning Zhang and Quanhai Yang ² (collectively "Sino Legend"), Red Avenue Chemical Co. Ltd. ("Red Avenue"), RedAvenue Chemical Corp. of America ("RedAvenue America"), and Thomas R Crumlish, Jr. ("Crumlish") (the latter three collectively, along with Ning Zhang, the "Red Avenue Respondents"), and Precision Measurement

² Ms. Zhang's given name is Ning. Mr. Yang's given name is Quanhai. Chinese individual names are written herein with given names first, and surnames second, e.g., "Ning Zhang" and "Quanhai Yang". However, it should be noted that traditional Chinese convention is to write individual names with surnames first and given names second. Thus, their names sometimes (but not always) appear in the traditional order "Zhang Ning" and "Yang Quanhai" in certain exhibits.

International LLC, each of which unfairly and unlawfully has gained and is gaining significant competitive advantage by usurping SI Group's significant investments of time, money and effort and forcing SI Group to compete against its own intellectual property.

18. The fact that the SI Group Trade Secrets, and particularly the SP-1068 Trade Secrets, were previously unknown and that Respondents (and particularly Sino Legend) misappropriated those trade secrets was confirmed by an independent technical appraisal performed by a judicially authorized technology verification center, which in turn was commissioned by the Chinese authorities to evaluate and compare the tackifier manufacturing processes of SI Group and Sino Legend.

19. To accomplish the misappropriation of the SI Group Trade Secrets, Respondents deliberately poached a key employee from SI Group (Shanghai) Co., Ltd. ("SI Group (Shanghai)"), which is an indirect wholly owned subsidiary of SI Group in China. By doing so, Respondents wrongfully acquired SI Group Trade Secrets and since then have wrongfully disclosed, are disclosing, have used and are using SI Group Trade Secrets to manufacture tackifiers in China, import them into the United States, and commence marketing.

20. Sino Legend also used the technology underlying SI Group's SP-1068 Process to derive a number of other rubber resin products. With the use of SI Group's technology, Sino Legend was able in short order to replicate a portfolio of rubber resins developed by SI Group over the course of well over 25 years, with continuous development and improvements thereafter.

21. SI Group initially sought relief in China by filing a Chinese "report for crime" on November 26, 2008, and initiating Chinese civil proceedings in February 2010, as discussed *infra* Section IX. But the Chinese courts have not taken action to stop the misappropriation.

22. Sino Legend subsequently imported plant qualification trial quantities of SP-1068 type tackifier and recently has announced it is on the verge of importing its products into the United States on a large commercial scale, in violation of SI Group's rights.

23. Specifically, as discussed in Section VIII and elsewhere below, SI Group has learned that Respondents imported plant qualification trial quantities in April 2010, apparently destined for a highly valued domestic customer ("Customer X") of SI Group. In December 2011 and January 2012, Respondents announced to the rubber and plastics industry press that they are planning to import and market large commercial scale quantities of those tackifiers for sale in the United States in direct competition with SI Group's domestic market. In addition, SI Group has recently received reports that Respondents have begun actively soliciting relationships with SI Group's distributors for the domestic sale and distribution of Sino Legend tackifiers. And now SI Group has learned that in April 2012, Sino Legend made another shipment of a much larger quantity of SP-1068 type tackifier to a U.S. based distributor of chemical products. Such activities will potentially cause great damage to SI Group's ongoing manufacturing industry and customer sales in the United States, as well as potentially threaten hundreds of jobs.

24. The Commission has jurisdiction because, *inter alia*, Respondents have imported into the United States, sold for importation into the United States and/or sold within the United States after importation, tackifiers that Sino Legend has manufactured and is manufacturing in China using misappropriated SI Group Trade Secrets, and Respondents are likely to imminently further engage in such activities.

25. In particular, the articles and products at issue are tackifiers that Sino Legend has manufactured and is manufacturing in China, (b) Respondents have imported into the United

States, have sold for importation into the United States and/or have sold within the United States after importation; and (c) Respondents are likely to imminently import into the United States, sell for importation into the United States and/or sell within the United States after importation.

26. Listed in Ex. A are the item numbers under the Harmonized Tariff Schedules of the United States for the accused tackifiers and other rubber resins, which have been imported unlawfully into the United States, sold for importation into the United States, and/or sold after importation into the United States in violation of SI Group's Trade Secret rights.

27. As noted above, the ITC has jurisdiction because, *inter alia*, Respondents' practices include unlicensed importation, sale for importation and/or sale after importation of tackifiers made using SI Group Trade Secrets, both actual and imminent.

28. Such unfair practices include, but are not limited to: (a) Respondents' importation into the United States of SP-1068 type tackifier made with misappropriated SI Group Trade Secrets; (b) sale of such tackifier made with misappropriated SI Group Trade Secrets to one or more major tire manufacturers (including Customer X, a major customer of SI Group) for importation and use within the United States; and (c) the sale of such tackifier made with misappropriated SI Group Trade Secrets to such major tire manufacturers within the United States after importation.

29. Through the unfair practices complained of herein, Respondents have targeted and are targeting the U.S. tackifier and other rubber resin market and have substantially and irreparably injured, threatened substantial and irreparable injury to, and are creating a tendency to substantially and irreparably injure the domestic industry relating to tackifiers and similar rubber resins (the "Domestic Industry"), including but not limited to SI Group's domestic

tackifier manufacturing facility, which is located in Rotterdam Junction, NY and employs hundreds of people, as well as the Domestic Industry detailed *infra* Section X.

30. By way of this Complaint, SI Group seeks as an order excluding from entry into the United States all products imported, sold for importation, and/or sold after importation, into or within the United States, comprising or made with tackifiers manufactured by or on behalf of Respondents using a process that includes SI Group Trade Secrets. SI Group also seeks a cease and desist order pursuant to Section 337(f), prohibiting the sale, distribution or other use of any inventories of such products within the United States at the time of the entry of any order.

II. COMPLAINANT SI GROUP

31. Complainant SI Group, Inc., is a domestic business corporation organized and existing under the laws of the State of New York, with its principal place of business in Schenectady, NY, and has a legal address of 2750 Balltown Road, Schenectady, NY 12309. (Ex. B).

32. SI Group was founded in 1906, as the Schenectady Varnish Company to manufacture versatile and economical electrical insulation materials. Construction of its Schenectady plant site began in 1907. The company grew and expanded to manufacture clear coat and agricultural varnishes. An important method was later discovered for applying a coating of the company's varnish to the wire forming the coils of motors and transformers.

33. In 1959, the company came under the leadership of Henry D. Wright, Howard Wright's son. A resin manufacturing facility was built in Rotterdam Junction, NY.

34. In 1962, the name of the company was changed to Schenectady Chemicals, Inc. A research center was constructed in Niskayuna, NY, a suburb of Schenectady, which was completed in 1968. An alkylphenol plant (P-300) came on stream at the Rotterdam Junction site in 1969.

35. In 1975, the company's much larger alkylphenol facility came on stream in Freeport, Texas, to meet the increased demand for these products. The company increased its Texas alkylphenol manufacturing capacity in 1981, in 1986 and again in 1990.

36. In late 1993, Schenectady Chemicals acquired Alphen Pratteln, AC, an alkylphenol producer near Basel, Switzerland, and the company name was changed to Schenectady International, Inc. (SII).

37. In 1995, Henry Wright died and his son-in-law, Wallace Graham, became the CEO. The company expanded to a global manufacturer with plants and customers in multiple countries.

38. In 2006, the company changed its name to SI Group, Inc. It is incorporated under the laws of the State of New York and has a principal place of business at 2750 Balltown Road Schenectady, NY 12309.³

39. SI Group (Shanghai) is a limited liability company organized and existing under the laws of the People's Republic of China, with its principal place of business in Shanghai, and has a legal address of 26D Cross Region Plaza No. 899 Lingling Road Shanghai 200030, China.

III. PROPOSED RESPONDENTS

40. On information and belief, Respondent Sino Legend Holding Group Inc. was established on December 2, 2005 as a corporation organized and existing under the laws of the British Virgin Islands, with Respondent Ning Zhang as a majority shareholder and Respondent Quanhai Yang and Xiangdong Sang each as minority shareholders. (Ex. C). On information and belief, as of June 24, 2008, Respondent Sino Legend Holding Group Inc. has a Registered Office

³ SI Group, Inc., and its U.S. predecessors noted above, are collectively referred to hereinbelow as "SI Group."

address at Offshore Incorporations Ltd., Offshore Incorporations Centre, P.O. Box 957, Road Town, Tortola, British Virgin Islands. (Ex. D).

41. On information and belief, Respondent Sino Legend (Zhangjiagang) Chemical Co., Ltd. was established on August 11, 2006 as a limited liability company organized and existing under the laws of the People's Republic of China, with its principal place of business in Zhangjiagang, and has a legal address of No. 99, Tianba Road Yangtze International Chemical Industrial Park Zhangjiagang City, JiangSu Province, China. (Ex. E, Ex. F).

42. On information and belief, the business of Respondent Sino Legend (Zhangjiagang) Chemical Co., Ltd. includes manufacture, sale and importation into the United States of specialty chemical resins, including tackifiers.

43. On information and belief, as of August 11, 2006, Respondent Sino Legend Holding Group Inc. was the only registered capital shareholder of Respondent Sino Legend (Zhangjiagang) Chemical Co., Ltd. (Ex. G; *see also* Ex. H (showing that as of January 18, 2008 Respondent Sino Legend Holding Group Inc. owned 100% of the shares, which were then transferred to Respondent HongKong Sino Legend Group Ltd.)).

44. On information and belief, Respondent HongKong Sino Legend Group Ltd. was established on September 5, 2007 (Ex. I) with Respondent Sino Legend Holding Group Inc. as shareholder (Ex. J) and Respondent Quanghai Yang as its sole director (Ex. K), with its principal place of business in HongKong, and a legal address of Flat/Rm 1610 Nan Fung Tower 173 Des Voeux Rd. Central, Hong Kong (Ex. L, Ex. M). On information and belief, Respondent Sino Legend Holding Group Inc. is currently the sole shareholder of HongKong Sino Legend Group Ltd. and Respondent Quanghai Yang continues to be its sole director. (Ex. N at ¶¶ 10, 12). On information and belief, its current registered address is HongKong Sino Legend Group Ltd., Flat

01B3 10/F, Carnival Commercial Building, 18 Java Road, North Point, Hong Kong. (Ex. N at ¶ 5; Ex. O).

45. On information and belief, on January 18, 2008, Respondent HongKong Sino Legend Group Ltd. acquired the shares in Respondent Sino Legend (Zhangjiagang) Chemical Co., Ltd. from Respondent Sino Legend Holding Group Inc. through a share transfer. (Ex. H, Ex. P, Ex. Q).

46. On information and belief, Respondent HongKong Sino Legend Group Ltd. is now the shareholder of Respondent Sino Legend (Zhangjiagang) Chemical Co., Ltd. (Ex. E).

47. On information and belief, Quanhai Yang is the chairman of Respondent Sino Legend Holding Group Inc. (Ex. P) and is also the chairman of Respondent Sino Legend (Zhangjiagang) Chemical Co. (Ex. F). On information and belief, he was also Sino Legend's legal representative when the First Chinese Civil Actions were filed (while its current legal representative is Jianhui Zhou). On information and belief, Respondent Quanhai Yang is the litigation representative in the Chinese Civil Actions.

48. As described above, on information and belief, Respondent Ning Zhang owns/controls Respondent Sino Legend Holding Group Inc., which in turn along with Respondent Quanhai Yang owns/controls Respondent Hong Kong Sino Legend Group Ltd., which in turn owns/controls Respondent Sino Legend (Zhangjiagang) Chemical Co., Ltd.

49. Accordingly, on information and belief, Respondents Ning Zhang and Respondent Quanhai Yang directly and/or indirectly own and control, and actively represent the interests of, Respondent Sino Legend (Zhangjiagang) Chemical Co., Ltd.

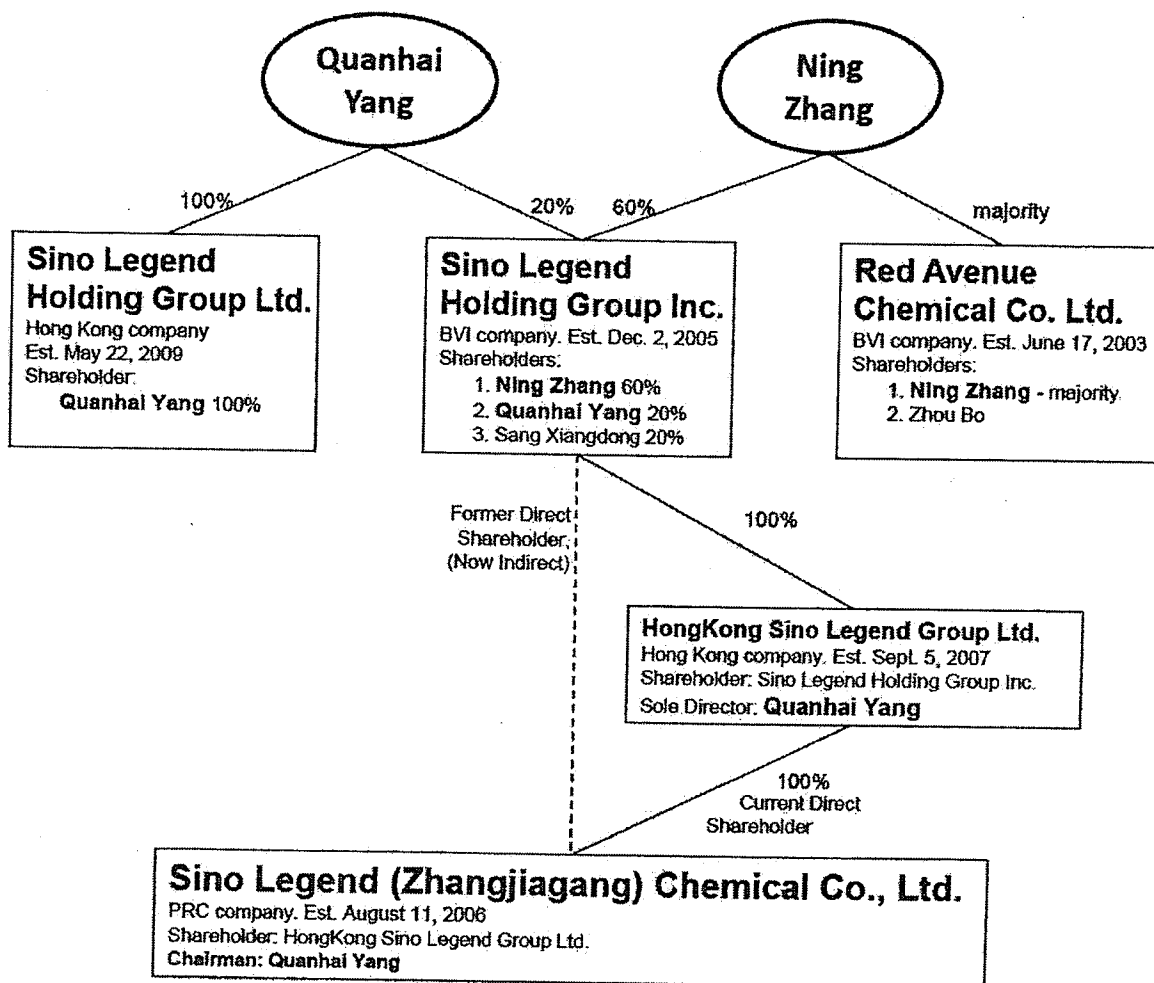
50. On information and belief, Respondent Sino Legend Holding Group Limited is a Hong Kong company established on May 22, 2009 (Ex. R), with a registered office at Rm.1610

Nan Fung Tower, 173 Des Voeux Road Central, Hong Kong (Ex. S), and with Quanhai Yang as its director and sole shareholder (Ex. T).

51. On information and belief, Respondent Red Avenue Chemical Co. Ltd. ("Red Avenue") was established on June 17, 2003 as a limited liability company organized and existing under the laws of the British Virgin Islands (Ex. U), with Respondent Ning Zhang as a majority shareholder and Bo Zhou as a minority shareholder (Ex. V). On information and belief, Respondent Red Avenue has a Registered Office at Offshore Incorporations Ltd., Offshore Incorporations Centre, P.O. Box 957, Road Town, Tortola, British Virgin Islands. (Ex. W). On information and belief, Respondent Red Avenue operates under the name of Red Avenue Group. (Ex. X). On information and belief, it has a place of operations in Shanghai under that name at 9/F Citigroup Tower, 33 Hua Yuan Shi Qiao Rd., Pudong New Area, Shanghai, China. (Ex. Y). On information and belief, Respondent Ning Zhang is a shareholder of Respondent Red Avenue (Ex. V), and actively promotes Respondent Red Avenue at tire companies in Europe.

52. Accordingly, on information and belief, Respondent Ning Zhang not only directly and/or indirectly owns/controls Respondent Sino Legend (Zhangjiagang) Chemical Co., Ltd. but also owns/controls Respondent Red Avenue.

53. The salient relationships discussed above are summarized according to SI Group's information and belief in the simplified organizational chart below:



54. On information and belief, Respondent Ning Zhang maintains a Canadian address at 668 Beachview Dr., North Vancouver, BC V7G 1R1, Canada, *and* at #602 3335 Cypress Pl., West Vancouver, BC V7S3J8. On information and belief, in an official February 2012 corporate filing identifying herself as founder and director of Red Avenue Foundation Limited, she also identified her Shanghai “residence” as 9th Floor Citigroup Tower, 33 Hua Yuan Shi Qiao Road, Pudong New Area Shanghai, and certified to the accuracy of that information. (Ex. Z).

55. On information and belief, in an official May 9, 2011, corporate filing identifying himself as director of HongKong Sino Legend Group Ltd., Respondent Quanhai Yang identified his “residence” as Door 1, Unit 08c, Bldg. 2, No.9 Guanghua Road, Chaoyang District, Beijing,

China. (Ex. AA, at 2). On information and belief, in an official May 22, 2011 corporate filing identifying himself as director of Sino Legend Holding Group Limited, Respondent Quanhai Yang identified his “residence” as Room 302, No. 21, Shui Qing Mu Hua Apartments, Ying Chun Road, Pudong District, Shanghai, China. (Ex. T, at ¶ 12).

56. On information and belief, Respondent RedAvenue Chemical Corp. of America (“RedAvenue America”) is a domestic business corporation organized and existing under the laws of New York, with its principal place of business 95 Mount Read Boulevard # 149 Rochester, NY 14611-1923. (Ex. BB).

57. On information and belief, Respondent Thomas R Crumlish, Jr., is a citizen of the United States and an individual residing at 2728 Edgemere Dr. Rochester, NY 14612. (*Id.*; *see also* Ex. CC).

58. Respondent Crumlish is also listed with the NYS Department of State Division of Corporations as Chairman or Chief Executive Officer of “RedAvenue Chemical Corp. of America,” 95 Mount Read Boulevard #149 Rochester, NY 14611-1923. (Ex. BB).⁴

59. In an article in Rubber & Plastics News, dated January 9, 2012, it was reported: “RedAvenue’s parent firm in China acts as a commissioned agent when dealing with domestic Chinese tire makers, while Sino Legend sells directly to the top multinational tire producers.” (Ex. DD).

60. On information and belief, Mr. Crumlish is also acting in his individual capacity in business with one of Sino Legend’s board members as an intermediate. *See infra* ¶ 133.

⁴ It appears that RedAvenue Chemical Corp. of America uses the name “RedAvenue” without a space, while the “parent” firm (*see* ¶ 59) in China uses the name “Red Avenue” with a space.

61. On information and belief, Respondent Precision Measurement International LLC ("Precision Measurement") is a limited liability company organized and existing under the laws of Michigan with a registered office of 8182 Pickering Place Westland, MI 48185. (Ex. EE).

IV. COMPLAINANT'S BUSINESS

62. SI Group is a New York based, world-leading developer and manufacturer of chemical intermediates, phenolic resins, alkylphenolic resins, and alkylated phenols. SI Group has a major manufacturing facility, its worldwide headquarters, and its worldwide R&D facility, along with more than 300 employees, all based in New York State. *See infra* Section X ("Domestic Industry"). As discussed below, a substantial portion of these resources are devoted to the products at issue in this Complaint. (*Id.*)

63. SI Group's main product lines are resins for rubber, adhesives, friction products, and other industrial applications, and chemical intermediates for plastic additives, engineering plastics, fuels & lubricants, surfactants, and specialty chemicals. Its rubber resin product line includes tackifier resins ("tackifiers"), reinforcing resins, bonding resins, and curing resins. (*See* <http://www.siigroup.com/productdb.asp>).

64. Tackifiers are primarily used in the process of manufacturing automotive tires. SI Group's tackifiers include octylphenol resins, butylphenol resins, "supertackifiers," terpene phenolic, and hydrocarbon based tackifiers. (*Id.*) The biggest class (by volume) is that of p-tert-octylphenol (PTOP) resins, which are the mainstays of the rubber industry. (Ex. FF at 1).

65. SI Group customers include all of the major tire manufacturers. (Conf. Ex. C).

66. SI Group and its affiliates continue to produce rubber resins at its main manufacturing plant in New York, as well as elsewhere throughout the world. The locations at which SI Group and its global affiliates currently manufacture tackifiers include the following plants:

SI Group, Inc.
1000 Main Street, Rt. 5S
Rotterdam Junction, NY 12150

SI-Group - Shanghai Co, Ltd.
268 Jiangtian Road (E)
Songjiang Industrial Zone
Shanghai 201600, China

SI Group Crios Resinas S.A
Avenida Brasil, 4500 - Distrito Industrial
13505-600 - Rio Claro - SP, Brazil

SI Group - Béthune SAS
1111 Avenue George Washington
62404 Béthune Cedex, France

SI Group - Ribécourt SAS
Route de Bailly
60170 Ribécourt-Dreslincourt, France

SI Group - South Africa (Ptd) Ltd
4 Mack Road
Prospection, Kwazulu Natal 4060
Republic of South Africa

SI Group - India Limited
Plot No. D-1/3 M.I.D.C.
Lote Parshuram
Tal. Khed, Dist. Ratnagiri
Lote 415 722, Maharashtra, India

67. In terms of quantities sold in the United States and domestic sales revenue, SI Group's most successful tackifiers are its PTOB-based SP-1068 product and other tackifiers made by SP-1068 Related Processes. (Conf. Ex. A). As discussed further below, *see infra* Section X, SI Group expended enormous time and resources, particularly in New York, developing its SP-1068 Process, the SP-1068 Related Processes, and the C&R Rubber Resin Processes, as well as domestic production and sales capacity for these resins.

V. TECHNOLOGY AT ISSUE

68. The trade secret SI Group technology at issue involves improved techniques for manufacturing tackifiers and other rubber resins.

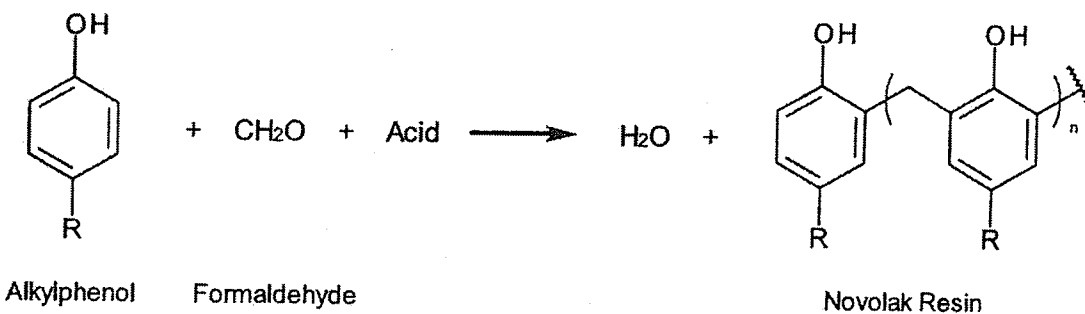
69. In the manufacture of natural or synthetic rubber articles, it is often necessary to add tackifiers to provide improved uncured ply adhesion (building tack) for assembling and improved knitting of contact areas.

70. Tackifiers give rubber compounds a high degree of tack yet should not stick to the processing equipment.

71. Originally coumarone-indene resins were used with natural rubber, but the advent of synthetic rubber and blends led to the need for a different class of more effective tackifiers. (Ex. FF, at 1). Phenolic tackifiers were the primary solution and have been in use for decades in a wide variety of applications. (*Id.*) In addition to the ability to impart tack to a wide variety of rubbers and rubber blends, they also can impart creep resistance (*i.e.*, resistance to the tendency to move slowly or deform under lower stress than the yield strength of the material) during the in-plant processing of uncured articles. (*Id.*)

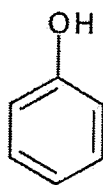
72. Most phenolic tackifiers are made by the acid-catalyzed "condensation" of an alkylphenol with formaldehyde to produce a linear phenolic resin called a novolak resin. (*Id.*)

The reaction is illustrated below:

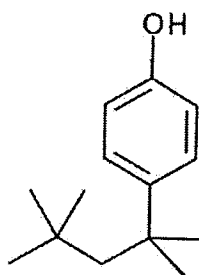


This is called a condensation reaction because water is formed as a byproduct.

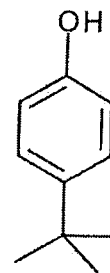
73. Phenolic tackifiers to date have been of two main classes defined by the starting alkylphenol used to produce them. As noted above, the biggest class is the one based on p-tert-octylphenol (PTOP) resins. (See *supra* ¶ 64). A smaller, specialty group of resins is based on p-tertbutylphenol (PTBP) and includes not only phenol-formaldehyde resins but also phenol-acetylene resins. Phenol-acetylene resins have unique properties and commonly are referred to as “super tackifiers” because of their performance characteristics. (Ex. FF, at 2). The structures of Phenol, PTOP, and PTBP are shown below:



Phenol

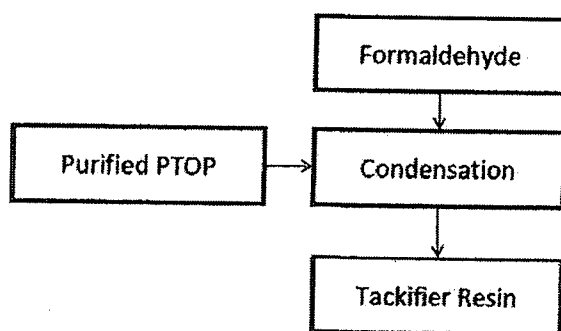


PTOP



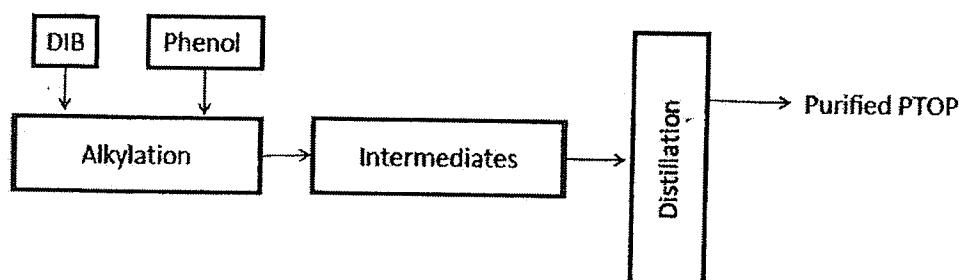
PTBP

74. In producing tackifiers based on PTOP (the biggest class of phenolic tackifiers), a manufacturer would typically purchase purified “reagent grade” PTOP for the condensation reaction in the simplified process flow illustrated below:



75. On information and belief, a PTOP manufacturer who provides purified “reagent grade” PTOP in turn would produce that material by an *alkylation* reaction between phenol and diisobutylene (DIB) to form a crude intermediate stream (which includes PTOP), followed by a

separation process that typically includes distillation to produce the purified PTOP, as illustrated by the following process flow.



76. There have been many investigations into the mechanism of tackification. (Ex. FF, at 2). However, the mechanism of tack of rubber compounds still is not fully understood, and the manufacture of tackifiers continues to present practical problems, as discussed further below.

VI. THE INTELLECTUAL PROPERTY AT ISSUE

A. The SP-1068 Process

77. The secret process adopted by SI Group to manufacture SP-1068 is described in the confidential narrative submitted herewith (Conf. Ex. D at Section II.A) and accompanying exhibits (Conf. Ex. E - Conf. Ex. G and Ex. GG - Ex. HH), as well as in a submission to the Chinese court (Conf. Ex. H), each of which are incorporated herein by reference.

78. The secret nature of SI Group's process was confirmed by an independent Chinese technical appraisal. In particular, as part of an earlier criminal investigation of Sino Legend, the Shanghai Science & Technology Consulting Service Center (STCSC), also known as Shanghai Science & Technology Center (SSTC), was commissioned by the Shanghai Public Security Bureau's Economic Crimes Unit to evaluate SI Group's process. (Conf. Ex. I at 1).

79. In a series of reports by the SSTC, summarized in its consolidated summary report attached hereto, the SSTC confirmed the secret nature of SI Group's process. (Conf. Ex. J).

80. Accordingly, SI Group's SP-1068 Process was a valuable trade secret (until misappropriated by Sino Legend), as confirmed by an independent Chinese technical appraiser.

B. The SP-1068 Related Processes

81. The SP-1068 Related Processes are similar to the SP-1068 Process but are modified to provide a variety of useful SP-1068 Related Products that meet particular customer specifications in the final product such as viscosity or melt point. The variations that lead to these different products are briefly summarized in the confidential narrative submitted herewith (Conf. Ex. D at Section II.B), which is incorporated herein by reference.

82. Thus, by applying the same overall trade secret process, but varying the ratio of the constituents, SI Group's know how allows the manufacture of several additional, commercially valuable products.

C. C&R Rubber Resin Processes

83. As noted above, *supra* ¶¶ 13-15, SI Group developed manufacturing processes for making several other rubber resin products, particularly its C&R Rubber Resins. One example is the SP-1045 Process for making SP-1045 rubber curing resin, which is a "resol" type resin. These are briefly summarized in the confidential narrative submitted herewith (Conf. Ex. D at Section II.C), which is incorporated herein by reference.

D. SI Group Took and Continues to Take Strict and Vigorous Measures to Maintain its Trade Secrets

84. As noted above, *supra* ¶ 6, SI Group took and continues to take strict and vigorous measures to maintain its trade secrets.

85. For example, SI Group implemented and maintained a strict document control procedure in its Shanghai plant that was in force when Xu was working there. (Conf. Ex. K). Among other things, the procedure required marking of appropriate quality manuals, procedure

documents and standard operating procedures documents as confidential (*id.* at 5.2.1.1, 5.2.1.2, 5.2.1.3); a confidential schedule for different types of documents designating who in the company may have permission to access online and written documents depending on the level of confidentiality (*id.* at 5.2.1.9); logging in of documents (*id.* at ¶¶ 5.2.2 and 5.2.3); reclamation and destruction of old documents (*id.* at ¶¶ 5.2.4 and 5.2.6); and maintaining records of the foregoing. SI Group proprietary documents are marked with confidentiality notices. Even the document control procedure itself has the notice, “This document and its contents are exclusive property of SI Group–Shanghai Co., Ltd. This document may not be reproduced in any form whatsoever, without prior written permission from SI Group–Shanghai Co., Ltd.” (*Id.*)

86. Other confidence measures include multiple contracts with employees imposing confidentiality and non-disclosure requirements, and employee policies, handbooks, and training about maintaining SI Group trade secrets. For example, during his employment and at SI Group’s request, Xu executed a Labor Contract containing non-disclosure provisions (Conf. Ex. L); a Non-Disclosure Agreement (Conf. Ex. M); a Supplementary Agreement (Conf. Ex. N); and an agreement to abide by the SI Group China Employee Manual (i.e., the “Employee Handbook”) (Conf. Ex. O, Conf. Ex. P). These agreements required Xu to hold SI Group trade secrets in close confidence, and strictly obey and enforce the company’s confidentiality policies. Together they also confirm SI Group’s rigorous measures to protect its trade secrets.

87. In addition, SI Group’s measures include exit interviews to remind employees of their continuing obligations of secrecy (*see* ¶ 97), followed by immediate, diligent legal action where available upon learning of misappropriation (*see* Section IX).

VII. MISAPPROPRIATION BY SINO LEGEND

A. The Acts of Misappropriation

88. In early 2002, Red Avenue Chemical Co. Ltd. (the Chinese entity) was appointed as an SI Group sales agent and distributor in China, allowing it to gain valuable information about SI Group's products and customer base.

89. Xu Jie, aka Jack Xu ("Xu") was employed by SI Group (Shanghai) beginning on April 14, 2004.

90. SI Group began manufacturing SP-1068 tackifier in Shanghai during the third quarter of 2004. (Conf. Ex. Q).

91. In addition to training in Shanghai, Xu trained at other SI Group facilities in the U.S., France, South Africa, and Brazil. He was promoted to Plant Manager of SI Group (Shanghai)'s Songjiang chemical plant in June 2006. He was also admitted as a member of SI Group's Manufacturing Integration Team, comprised of a select group of SI Group employees entrusted with access to SI Group's global processing technology resources.

92. On information and belief, by virtue of his employment and position, Xu was the only employee at the SI Group (Shanghai) plant who had access to the entire trade secret processes for making SP-1068 and HRJ-2765.

93. On information and belief, one of Respondent Sino Legend Holding Group Inc.'s founding shareholders, Respondent Ning Zhang, is also a founding shareholder of Respondent Red Avenue and an active member of its management. (Ex. V). Public records suggest that the two companies continued to act under common ownership and control thereafter. For example, they each used the same registered office and agent in the British Virgin Islands and, on the very same day, each changed them from Imperial Trust Limited, P.O. Box 3321, to Offshore

Incorporations Limited, Offshore Incorporations Centre, P.O. Box 957, both in Road Town, Tortola, British Virgin Islands. (Ex. D, Ex. W).

94. On information and belief, the Chinese Red Avenue Respondents, including Ning Zhang, had knowledge of SI Group's Shanghai products, employees and distribution, and access to its plant manager Xu, through the distribution relationship of Red Avenue Chemical Co. Ltd. with SI Group, before SI Group ended that relationship in December 2004. On information and belief, Sino Legend in turn may have first gained access to some or all of this information and to Xu through the Chinese Red Avenue Respondents.

95. On information and belief, the Chinese Red Avenue Respondents either directly or through affiliates currently distribute chemical products for a variety of companies (including Sino Legend) without revealing that Sino Legend and Red Avenue are in fact affiliated through common ownership. The use of seemingly unconnected company names creates the possibility that a chemical company may be distributing products through Red Avenue without realizing that an affiliate of Red Avenue may be manufacturing a competing product and selling it through the same sales channel.

96. On information and belief, as of March 2007, Sino Legend was unable to manufacture a SP-1068 type tackifier on a commercial scale that met market standards.

97. On April 30, 2007, Xu resigned from SI Group (Shanghai). In his exit interview, he denied he was leaving to join a competitor.

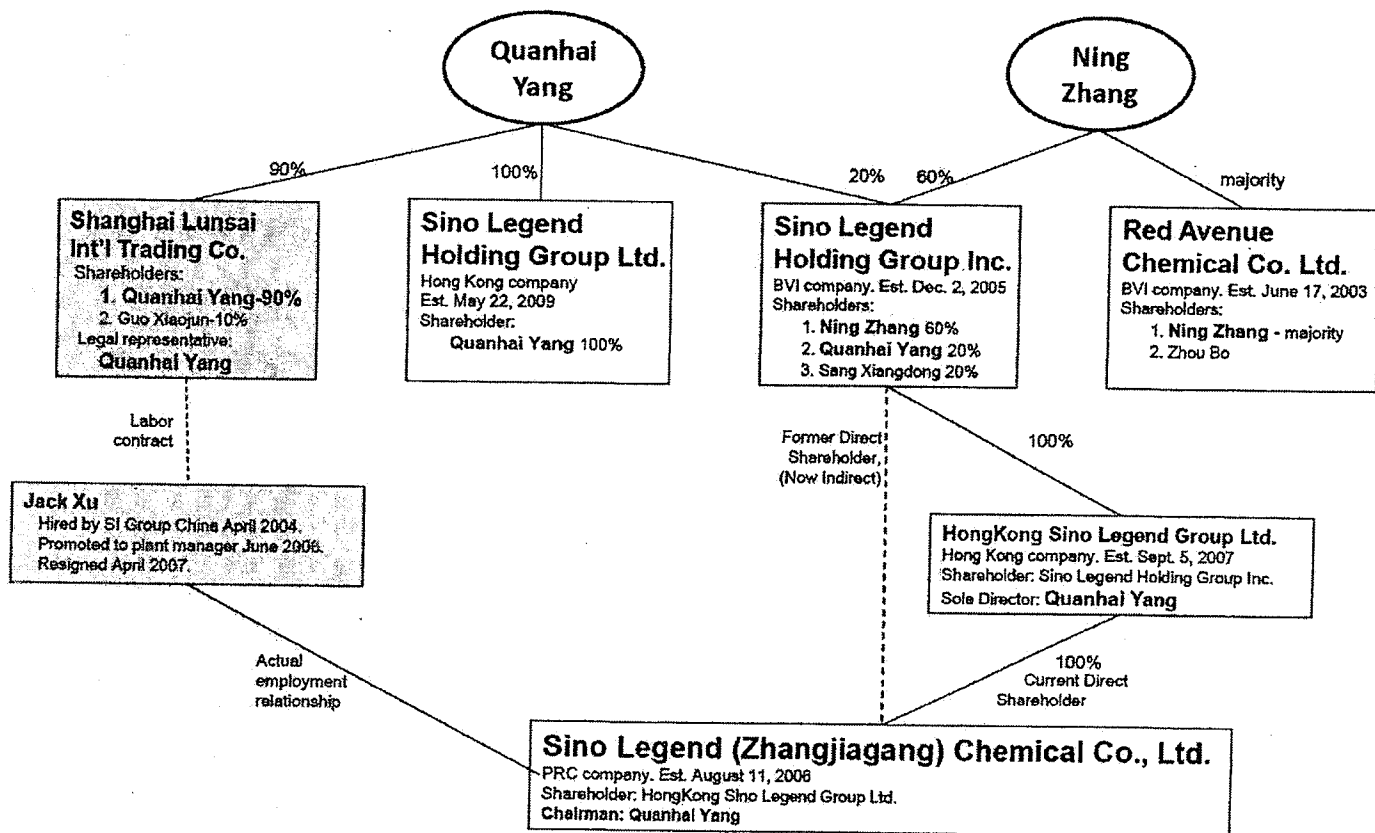
98. On information and belief, in early 2008, Sino Legend started to market its SL-1801 resin, a SP-1068 grade tackifier product (*i.e.*, tackifier resin with specifications substantially the same as those for SI Group's SP-1068 tackifier). Thus, not long after Xu joined

Sino Legend, the latter began marketing seemingly identical products in competition with SI Group.

99. As noted above, *supra* ¶ 21, SI Group (Shanghai) reported a crime in November 2008 and ultimately pursued Chinese civil actions, but Sino Legend repeatedly denied Xu was its employee. Even when confronted in court with pictures showing Xu entering and/or leaving its facility, Sino Legend outright denied any employment relationship in open court. The explanation Sino Legend offered was that Xu was hired by a contractor (“Zhengzhou Zhongyuan Polyurethane Engineering Co., Ltd.”) working at Sino Legend.

100. It was not until months later that SI Group was able to track down evidence that Xu worked for Sino Legend. SI Group discovered that Xu had filled out an identification (ID) application form with the local police branch in which he listed Sino Legend as his employer. In the corresponding database, the employer column also indicates Sino Legend as the employer.

101. On information and belief, Sino Legend had been able to successfully hide the relationship by hiring Xu through an affiliate - Respondent Shanghai Lunsai International Trading Company, controlled by Respondent Quanghai Yang (Ex. II), an individual who, at the same time, was a shareholder and is a director of HongKong Sino Legend Group Ltd. (see *supra* ¶ 44), the shareholder of Sino Legend (Zhangjiagang) Chemical Co. (see *supra* ¶ 46). Thus, individual respondents Quanghai Yang and Ning Zhang cast an even more intricate web than the one charted above, *supra* ¶ 53, to include the related company Respondent Shanghai Lunsai International Trading Company, in order to hide the hiring of Xu. This is shown by the shaded boxes below:



102. It was only after SI Group presented the police ID application record that Xu was employed by Sino Legend in court, to corroborate SI Group's other evidence, that Sino Legend ceased its denials of employing Xu.

103. Meanwhile, on information and belief, Sino Legend was taking other steps to misappropriate SI Group's trade secrets. On information and belief, on August 11, 2008, Sino Legend filed Chinese patent application no. 200810041551.7, entitled "Improved process for producing alkylphenols thermoplastic resin," describing a process for manufacturing tackifier. (Ex. JJ).

104. While the patent application claims purport to cover new material, the specification itself improperly misappropriates SI Group trade secrets by disclosing important aspects SI Group's proprietary SP-1068 Process previously unknown to the public. (*Id.*)

105. With the publication of that patent application on January 7, 2009 as Chinese Patent Pub. No. CN 101338013A (*id.*), key elements of SI Group's proprietary tackifier manufacturing process -- a process SI Group successfully maintained as a trade secret for decades, and the cornerstone of a multi-million dollar global business -- were irrevocably lost to the public domain.

106. Since the time Xu joined Sino Legend in July 2007, Sino Legend has taken a large portion of SI Group's worldwide market share of tackifier sales. (Ex. KK). According to Rubber World, Sino Legend is now the largest Asian manufacturer of resins for the tire and rubber markets, now controlling approximately 70% of the Chinese market for tackifying and reinforcing resins, and 30% share for of the rest of Asia. (*Id.*) It is further reported that Sino Legend is a supplier to eight of the top ten multinational tire companies operating in Asia, as well as to the majority of China's domestic manufacturers. (*Id.*)

107. On information and belief, Red Avenue is currently building an alkylphenol plant in Shanghai to further support Sino Legend's tackifier production business, and to directly sell alkylphenol products into the market in competition with SI Group. On information an belief, Xu is managing the construction of the new plant.

108. Also shown in Section VIII below, Sino Legend imported plant qualification trial quantities into the U.S. in 2010, recently imported an even much larger quantity in April 2012 and is on the verge of importing even larger commercial scale quantities of those tackifiers for distribution and sale in the United States in direct competition with SI Group's domestic market. On information and belief, Sino Legend tackifier product is already qualified at all tire plants of Customer X, both in the U.S. and abroad.

B. Resin Analysis Confirms Sino Legend's Misappropriation

109. SI Group tested three resins for residuals: SI Group's SP-1068, SI Group's CRJ-418 and Sino Legend's SL-1801 tackifier. As explained in the confidential narrative submitted herewith (Conf. Ex. R), which is incorporated herein by reference, the resin analysis suggests that the Sino Legend's SL-1801 was made from essentially the same raw material stream using key elements of SI Group's trade secret SP-1068 Process.

C. Further Evidence of Misappropriation from an Independent Technical Investigation and Appraisal

110. As noted above, in response to a criminal report by SI Group (Shanghai) in November 2008, the Shanghai Public Security Bureau commissioned the SSTC, a judicially authorized technology verification center, to compare SI Group's tackifier manufacturing process with that of Sino Legend. (Conf. Ex. I at 1; Conf. Ex. J).

111. In connection with its independent technical investigation and appraisal, the SSTC conducted, among other things: a technical hearing, an on-site investigation of production procedures and reactor equipment, and a review of technical documents provided by SI Group (Shanghai) and Sino Legend. (Conf. Ex. J at 5-6).

112. The SSTC's primary conclusions, which withstood supplementary findings and reports, included:

- (1) The SL-1801 tackifier resin product produced by Sino Legend (Zhangjiagang) Chemical Co., Ltd is basically identical to the SP-1068 tackifier resins product of SI Group-Shanghai Co., Ltd.
- (2) The production process of SL-1801 tackifier resins of Sino Legend (Zhangjiagang) Chemical Co., Ltd is basically identical to that of the SP-1068 tackifier resins product of SI Group-Shanghai Co., Ltd.

(*Id.* at 5).⁵

⁵ Although the technical details developed during the SSTC appraisal are currently protected by a confidentiality undertaking in the Chinese civil actions, SI Group would issue discovery requests for Sino Legend to produce documents for which Sino Legend has claimed confidentiality.

113. Accordingly, SI Group's claim of misappropriation is supported by far more than circumstantial evidence. Rather, it is supported by an independent technical appraisal of judicially authorized technology verification center commissioned by the Chinese authorities to evaluate and compare the tackifier manufacturing processes of SI Group and Sino Legend.

D. Summary of Misappropriation by Sino Legend

114. The technical information and evidence discussed in the confidential narrative submitted herewith (Conf. Ex. D) and accompanying exhibits (Conf. Ex. E - Conf. Ex. G and Ex. GG - Ex. HH), shows that SI Group's SP-1068 Process was not publicly known, and the SSTC report confirmed that Sino Legend's process to make its SL-1801 tackifier resin "is basically identical to" the trade secret SP-1068 Process of SI Group (*see supra* ¶ 112). On information and belief, Sino Legend misappropriated those and other SI Group Trade Secrets through hiring Xu (and otherwise) to develop SL-1801 and a portfolio of additional other rubber resins corresponding to SI Group rubber resins, including:

SI Group Product	Sino Legend Product
HRJ-2765 ⁶	SL-1802
SP-1045	SL-7015
R-7578	SL-1805

115. Xu had access to all of these technologies and, on information and belief, Sino Legend was unable to consistently make these corresponding products before Xu joined Sino Legend, but was able to do so shortly thereafter.

116. Thus, as noted above, with the use of SI Group's technology, Sino Legend was able in short order to replicate a portfolio of products developed by SI Group over the course of well over 25 years.

⁶ Based on same intermediate as SP-1068, as discussed above, *supra* section VI.B.

VIII. IMPORTATION INTO, SALE FOR IMPORTATION INTO AND SALE AFTER IMPORTATION WITHIN THE UNITED STATES

117. As discussed more fully in Section VII.A above (and the exhibits referenced therein), Sino Legend manufactures tackifiers at its manufacturing facilities located in China. As also discussed above, SI Group's analysis (*supra* Section VII.B), and the analysis by independent experts (*supra* Section VII.C), demonstrates that certain Sino Legend tackifiers, including the SL-1801 tackifier, were made using SI Group Trade Secrets.

A. Respondents' Announced Plans to Enter the North American Market in 2012 and Offer a "High Volume Supply" of Tackifier

118. On December 27 and 28, 2011, it was widely reported in Rubber Market News, Rubber World and elsewhere that Sino Legend had announced plans to expand into North America and Europe. (Ex. KK). It was further reported that RedAvenue Chemical Corp. of America ("RedAvenue America"), headquartered in Rochester, would be serving as Sino Legend's North American market representative. (*Id.*)

119. According to the Rubber World article, Corey Xie, deputy manager, Sino Legend, announced: "*Our North American and European expansion, which will begin in earnest during 2012, will provide a viable, high volume supply alternative for multinational tire manufacturers.*" (*Id.* (emphasis added)).

120. In an article in Rubber & Plastics News, dated January 9, 2012, Respondent Crumlish confirmed as President of RedAvenue America that his company would serve as Sino Legend's North American market representative and would seek to obtain tackifier market share from SI Group.

121. For example, the report stated: "The Chinese plant [] has capacity to produce another 20,000 tons of curing and other specialty phenolic resins, said Tom Crumlish, president

of RedAvenue Chemical Corp. of America, during an interview in Akron. His firm will serve as Sino Legend's North American market representative." (Ex. DD).

122. It was further reported: "Crumlish said Sino Legend was able to grow quickly because SI Group - Schenectady International - was pretty much the only major supplier of phenolic resins to tire makers. 'When there is only one manufacturer of something, that can open up opportunity because most tire makers like to have two sources,' he said...." (*Id.*)

123. It was further reported: "RedAvenue played some role in convincing the investors behind Sino Legend-Hongkong Sino Legend Group Ltd.-into entering the phenolic resin market in China, Crumlish said. The firm had worked as an agent for SI Group, but that company decided to sell direct. 'We were like, 'If someone wants to make this we can sell it,' he said." (*Id.*)

124. It was further reported: "The RedAvenue official sees North America as a more likely primary target for 2012 than Europe, because of the current economic instability in Europe. ... He calls the approach for 2012 as more of a 'toehold strategy,' with an emphasis on getting some infrastructure in place." (*Id.*)

125. A subsequent March article in European Rubber Journal confirmed previous reports about Sino Legend's plans and further reported that it "expects to ship limited quantities to specific customers at nominated tyre plants in the US, South America and elsewhere during 2012, but to begin volume shipments in 2013 and 2014, as the company wins approvals from the top tyre makers in their home countries and regions." (Ex. LL).

B. Sino Legend's Importation of SP-1068 Type Tackifier

126. SI Group has discovered Chinese export records (Conf. Ex. S) and U.S import records (Conf. Ex. T) showing that in April 2010, Sino Legend had already imported into the United States tackifier destined for the domestic tire plant of SI Group's highly valued

Customer X, noted above in ¶ 23. The Chinese export record identifies Respondent Sino Legend (Zhangjiangang) Chemical Co., Ltd. as the exporter (Conf. Ex. S), and the import record identifies Respondent Sino Legend Holding Group, Inc. as the shipper (Conf. Ex. T).

127. On information and belief, the amount of tackifier imported by Sino Legend would have been sufficient to allow Customer X to run a plant qualification trial. On information and belief, SI Group estimates that Sino Legend supplied that plant with enough tackifier to produce well over 50,000 tires. That is clearly more than an experimental test. On information and belief, that volume of tires would necessarily have been sold on a commercial basis.

128. SI Group has been the supplier of SP-1068 type tackifier to a major U.S. tire manufacturing plant of Customer X. The SI Group tackifier that Customer X uses at that plant is HRJ-10420 and is made by an SP-1068 Related Process.

129. On information and belief, the Customer X plant only processes this type of tackifier.

130. Accordingly, the tackifier imported by Sino Legend and destined for the Customer X plant most likely would have had essentially the same specifications as required for HRJ-10420.

131. On information and belief, Customer X ran a plant qualification trial using the imported Sino Legend tackifier. Customer X has recently confirmed to SI Group representatives that all Customer X tire plants, including U.S. domestic plants, are now qualified to consume Sino Legend's tackifier product.

C. Red Avenue Respondents Have Been Seeking Distribution Relationships for Sino Legend

132. SI Group representatives have received reports from multiple U.S. distributors that Respondent Crumlish recently has been soliciting distribution relationships for Sino Legend tackifiers.

133. For example, SI Group received two independent reports that Respondent Crumlish approached two separate SI Group U.S. distributors at the ACS Rubber Expo, held in the International Exposition Center of Cleveland, Ohio from October 11, 2011 to October 13, 2011. (Conf. Ex. U). It was explained that Respondent Crumlish was seeking to establish a distribution relationship for Sino Legend tackifiers as an alternative to SI Group tackifiers, at a lower price. (*Id.*) One of those distributors later explained that Mr. Crumlish is in business with one of the board members and trying to act as an intermediate. (*Id.*)

D. Sino Legend Is Ramping Up Its Importation, Now Using Respondent Precision Measurement as a U.S. Consignee / Distributor

134. SI Group has discovered that very recently (in late April of this year), there has been an additional importation of about *three times* the amount of Sino Legend's initial April 2010 importation, with the consignee being Respondent Precision Measurement, which appears to be a U.S. distributor of chemical products with contacts at major U.S. tire manufacturers including SI Group customers. (Ex. MM).

135. SI Group submits herewith two April 2012 import records that, on information and belief, represent a shipment of almost *three times* the amount previously shipped in April 2010. (Conf. Ex. V, Conf. Ex. W). The product is identified as Sino Legend "SL-1801" – the very same tackifier at issue in the Chinese Civil Actions. (*Id.*; see also *supra* ¶ 112).

136. The import records refer specifically to Customer X and the product code (or an abbreviation thereof) that Customer X internally uses for SI Group's HRJ-10420. (Conf. Ex. V, Conf. Ex. W; *see also* Conf. Ex. D at ¶ I.1.a for the product codes used by Customer X).

137. The first import record identifies Respondent Sino Legend Holding Group Limited as the shipper and Respondent Precision Measurement as the consignee. (Conf. Ex. V).⁷

138. Accordingly, the Chinese export and U.S. import records from April 2010 and April 2012 together now identify *three separate Sino Legend entities* directly involved in the exportation from China and importation into the United States: Respondents Sino Legend (Zhangjiagang) Chemical Co., Ltd., Sino Legend Holding Group, Inc., and Sino Legend Holding Group Limited.

139. On information and belief, the April 2012 records, including the specific identification of SL-1801, provide firm evidence that Respondents are actually importing the very same tackifier that the SSTC found was made by SI Group's SP-1068 Process misappropriated by Respondents, and also supports SI Group's belief that the previous importation in April 2010 was in fact the same or very similar SP-1068 type tackifier.

140. It therefore appears Sino Legend is following through with its recently announced plan to significantly ramp up importation and sale of SP-1068 type tackifier, including to the U.S. facilities of SI Group's valued Customer X, in direct competition with SI Group, and Sino Legend threatens to continue ramping up in much larger quantities from 2012 through 2013.

⁷ The second import record identifies China Container Line (Shanghai) Limited as the shipper and Prime Agency LLC as the consignee. (Conf. Ex. W). There is no express identification of Sino Legend in this second import record but, on information and belief based on *inter alia* the reference to Sino Legend product "SL-1801" and various other indicia including the identical quantity of material, the second April 2012 record relates to the same shipment of the same material as the first April 2012 import record. The absence of information in the second import record relating to Sino Legend is consistent with SI Group's understanding that publicly available shipping documents often do not identify the Chinese manufacturer/exporter.

E. Summary of Unfair Acts of Importation

141. As discussed above, the Sino Legend Respondents have unfairly competed with SI Group by *inter alia* pilfering and misappropriating SI Group Trade Secrets, manufacturing rubber resins using those secrets, and in April 2010 importing / selling SP-1068 type tackifier to SI Group's valued Customer X. Late last year and early this year, Sino Legend together with the Red Avenue Respondents announced plans to ramp up production and importation. As of late last year, Red Avenue Respondents were working with Sino Legend to find U.S. distributors specifically for products to compete with SI Group. Now, SI Group has learned of a much larger importation in April 2012, with Respondent Precision Instrument International acting as a consignee / distributor. Together, Respondents are importing, selling for importation, and/or selling after importation, tackifiers made from misappropriated SI Group Trade Secrets.

142. On information and belief, Respondents are and will continue such misappropriation, *inter alia* by manufacturing, importing, selling for importation, and/or selling after importation tackifiers and other rubber resins that misappropriate SI Group Trade Secrets.

143. On information and belief, unless prevented, Respondents will continue importing those tackifiers for distribution and sale in the United States in 2012 on an even larger commercial scale directly in competition with SI Group's domestic market and, by 2013, is likely to capture a substantial portion of the market share that SI Group earned through decades of extensive domestic innovation, manufacturing, distribution and sales, based on the high quality of tackifiers covered by SI Group's Trade Secrets.

IX. RELATED LITIGATION

A. Criminal Investigation by Shanghai Public Security Bureau

144. Before Respondents had announced their intent to commence importation into the United States, SI Group initiated and has since diligently pursued relief from Chinese authorities and courts, but thus far to no avail.

145. On November 26, 2008, SI Group contacted the Shanghai Public Security Bureau ("PSB") to initiate a criminal investigation against Xu, the former SI Group plant manager suspected of taking SI Group's technical know-how and giving it to Sino Legend. The matter was assigned to the PSB's Economic Crimes Investigation Unit.

146. After SI Group prepared and submitted a variety of preliminary information requested by the PSB, the PSB commenced the following investigation of Sino Legend:

Case No.: Jing Zi (2009) No.756

PSB: Shanghai Municipal Public Security Bureau

Officers: Officer Zhang Qing (Group 4 of the Economic Crimes Investigation Unit)
Officer Tang (Vice Director of the Economic Crimes Investigation Unit)

147. On information and belief, the PSB directly engaged (at SI Group's cost) a judicially authorized technology verification center called the Shanghai Science & Technology Consulting Service Center (STCSC), also known as Shanghai Science & Technology Center (SSTC), to perform an independent technical appraisal to compare the companies' processes and products.

148. On information and belief, the SSTC is recognized by the administrative authority of justice of the People's Republic of China and is commonly used by the PSB to perform this type of a technical appraisal.

149. On information and belief, representatives of the SSTC visited the facilities of both SI Group and Sino Legend in early 2009 to review technical documentation, take samples of products, and to observe each company's manufacturing equipment and processes.

150. Upon finalization of its report, but prior to the release of the official stamped copy to the PSB, the SSTC verbally confirmed to SI Group that the similarities between the SI Group and Sino Legend products, as well as the similarities in the manufacturing processes and equipment used by both companies, could not simply result from independent development given the extremely limited time frame in which Sino Legend was able to overcome all of its technical difficulties. The SSTC noted that the timing was especially suspect given the close proximity between Sino Legend's hiring of SI Group's former plant manager and the introduction of Sino Legend's tackifier products in China.

151. The SSTC later stated to SI Group that the report was stamped and delivered to the PSB in August 2009. However, the report was not released by the PSB at that time.

152. At several times during the course of the PSB's criminal investigation, the PSB officers encouraged SI Group to drop the criminal investigation of Sino Legend, and to pursue a civil claim instead. They assured SI Group that the PSB had collected a vast amount of evidence and that, if SI Group withdrew the criminal complaint, the PSB would turn over all of the evidence they had collected.

153. The PSB eventually terminated its investigation of Sino Legend without SI Group's consent, issuing only a perfunctory statement that there was a "lack of evidence," but without otherwise providing any specific reasons why it refused to prosecute the case despite the previously indicated volume of evidence collected, including the unequivocal conclusions reached by the SSTC.

B. Chinese Civil Actions

154. As a result of the PSB's decision to terminate its criminal investigation, in early February 2010, SI Group filed two civil actions against Sino Legend and Xu before the Shanghai No.2 Intermediate People's Court concerning the misappropriation:

Civil Case #1

Parties: SI Group (Shanghai) Co., Ltd. v. Sino Legend (Zhangjiagang) Chemical Co., Ltd. and Jie Xu
Cause of action: Infringement on Trade Secret
Court: Shanghai No.2 Intermediate People's Court
Case No. (2010) Hu Er Zhong Min Wu (Zhi) Chu Zi No.38
Panel Members: Mr. Guoquan Li (Presiding Judge), Mr. Xiuting Yuan and Mr. Yuan He (Ex. NN (complaint))

Civil Case #2

Parties: SI Group (Shanghai) Co., Ltd. v. Sino Legend (Zhangjiagang) Chemical Co., Ltd. and Jie Xu
Cause of action: Ownership Dispute on Patent Application
Court: Shanghai No.2 Intermediate People's Court
Case No. (2010) Hu Er Zhong Min Wu (Zhi) Chu Zi No.39
Panel Members: Mr. Guoquan Li (Presiding Judge), Mr. Xiuting Yuan and Mr. Yuan He (Ex. OO (complaint))

(collectively, the "First Chinese Civil Actions").

155. Despite repeated requests by SI Group and the trial judge, and a letter sent from the U.S. Consulate General to the Foreign Affairs Office of Shanghai Municipal People's Government on June 18, 2010 (Conf. Ex. X), PSB refused to furnish the court with the technical comparison appraisal reports or any other evidence previously collected by the PSB.

156. The judge asked representatives from SI Group and Sino Legend to attend an "informal hearing" on May 27, 2010. On information and belief, this was a highly unusual step at this early stage of the proceedings -- prior to the deadline for production of evidence, and only a few days following delivery of official notice of the lawsuit to Sino Legend. On information and belief, the court's primary purpose in calling the hearing was to understand why the PSB

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failed to pursue a criminal prosecution despite the unequivocal findings reported in the SSTC reports.

157. The hearing lasted a single day. The judges' inquiries at the hearing were limited to confirming whether the information that both parties provided to the SSTC was true and accurate. Both SI Group and Sino Legend confirmed that to be the case.

158. Less than a week later, SI Group learned from the trial judge that the PSB had discouraged the court from requesting the technical appraisal reports from the SSTC. The judge offered to try again but was not optimistic. The judge further explained that, without the reports, the judge did not believe the court would have enough information to consider SI Group's lawsuit against Sino Legend.

159. The trial judge ultimately obtained the SSTC's consolidated summary report (Conf. Ex. J) directly from the SSTC on September 19, 2010, despite Sino Legend's threats to take action against SSTC for disclosing the reports. On information and belief, the court also obtained the report entitled Shanghai Science and Technology Consulting Service Center (2009) Jian Zi No.04-1, which concludes that the technologies of the two companies are the same or materially similar, and the report entitled Shanghai Science and Technology Consulting Service Center (2009) Jian Zi No.04-2, which maintains the conclusion of prior reports about the trade secret nature of SI Group SP-1068 process, taking into consideration several prior art articles (Conf. Ex. I at 9-12).

160. As explained *supra* ¶ 110, the SSTC also concluded that Sino Legend's process to make its SL-1801 tackifier resin "is basically identical to" the trade secret SP-1068 Process of SI Group (*see supra* ¶ 112; Conf. Ex. J).

161. However, on information and belief, by the time the report was released, the Shanghai No.2 Intermediate People's Court was already approaching its deadline to close the case and therefore would not have fully understood the technical issues. If the court was to rush a decision, it likely would not have arrived at a fair and just result. SI Group therefore withdrew its complaint and on March 24, 2011, filed two new civil actions that included additional evidence relating to its trade secrets. By re-filing the cases, SI Group was able to re-set the court's time to review and fully understand the case, and also allow it to more fully cover the trade secrets that had been misappropriated.

Civil Case #3

Parties: SI Group, Inc. and SI Group (Shanghai) Co., Ltd.
v. Sino Legend (Zhangjiagang) Chemical Co., Ltd. and Jie Xu
Cause of action: Infringement on Trade Secret
Court: Shanghai No.2 Intermediate People's Court
Case No. (2011) Hu Er Zhong Min Wu (Zhi) Chu Zi No.50
Panel Members: Original: Mr. Wenbiao Rui (Presiding Judge), Mr. Xiuting Yuan
and Mr. Yuan He;
Current : Mr. Wenbiao Rui (Presiding Judge), Mr. Yuan He
and Mr. Fusheng Zhao

(Ex. PP (complaint))

Civil Case #4

Parties: SI Group, Inc. and SI Group (Shanghai) Co., Ltd.
v. Sino Legend (Zhangjiagang)
Cause of action: Ownership Dispute on Patent Application
Court: Shanghai No.2 Intermediate People's Court
Case No. (2011) Hu Er Zhong Min Wu (Zhi) Chu Zi No.48
Panel Members: Original: Mr. Wenbiao Rui (Presiding Judge), Mr. Xiuting Yuan
and Mr. Yuan He;
Current : Mr. Wenbiao Rui (Presiding Judge), Mr. Yuan He
and Mr. Fusheng Zhao

(Ex. QQ (complaint))

(collectively, the "Second Chinese Civil Actions").

162. To date no court has rendered a judgment in the Chinese actions.

X. DOMESTIC INDUSTRY

163. As required by Section 337(a)(2) and defined by Section 337(a)(3), an industry in the United States exists and/or is being established relating to articles protected by each of the SI Group Trade Secrets.

164. SI Group has made substantial investments in U.S. domestic industry by virtue of the SI Group Trade Secrets, including: domestic plant and equipment; domestic labor and capital; domestic manufacturing; domestic engineering, research and development; and other domestic exploitation by virtue of distribution and sales in the United States of tackifiers made by the SI Group Trade Secrets.

165. A non-confidential summary of some of these investments is provided below. A confidential narrative (Conf. Ex. Y) and accompanying exhibits (including Conf. Ex. B and Conf. Ex. Z) providing further detail are submitted herewith, and are incorporated herein by reference.

A. Significant Investment in Plant and Equipment in the United States

166. A true and accurate summary of the capital expenditures of SI Group into its Rotterdam Junction manufacturing facility, its R&D facility in Niskayuna NY, and its headquarters in Schenectady NY, from 1968 through 2011 is provided herewith. (Conf. Ex. AA).

167. In total, SI Group has invested hundreds of millions of dollars into the Rotterdam Junction resin manufacturing facility and the Niskayuna R&D and HQ facility from 1968 to 2011. (*Id.*) A large portion of that investment is attributable to the rubber resins, including SP-1068 and other tackifiers, that are at issue in this Complaint and to SI Group's relevant domestic industry. (*See* Conf. Ex. Y, Section A).

B. Significant Employment of Labor and Capital in the United States

168. SI Group has continuously employed approximately 450 people in the United States from 2009 through the first quarter of 2012. (Conf. Ex. BB). Over 150 of these people are employed at the Rotterdam Junction manufacturing facility, which makes SP-1068 and other rubber resins at issue in this Complaint, and over 150 are employed at SI Group's Headquarters and R&D facility in Niskayuna NY. (*Id.*)

169. These SI Group employees have been and are dedicated to research, development, design, engineering, purchasing, manufacturing, safety, environmental, marketing, sales, finance, human resources, management, legal and support.

170. The employees are located in the United States and a large portion of their work may be apportioned to the rubber resins, including SP-1068 and other tackifiers, that are at issue in this Complaint, and to SI Group's relevant domestic industry. (*See* Conf. Ex. Y at Section B).

C. Substantial Manufacturing in the United States

171. SI Group currently manufactures SP-1068, HRJ-10420, HRJ-2765, SP-1045 and other tackifiers and rubber resins at the above-noted plant in Rotterdam Junction, NY. (Conf. Ex. B; *see also supra* ¶ 66). SI Group manufactured large amounts of tackifier and other rubber resins in Rotterdam Junction during 2011. (*Id.*)

D. Substantial Investment in Engineering, Research and Development, in the United States

172. As noted above, *supra* ¶ 34, SI Group completed construction on a research center in Niskayuna, NY, a suburb of Schenectady, in 1968.

173. Since then, SI Group has invested millions into domestic research and development. (Conf. Ex. AA).

174. A substantial amount of SI Group's R&D investment specifically related to PTOP-based tackifiers such as SP-1068, HRJ-10420, and HRJ-2765.

XI. SUBSTANTIAL INJURY, THREAT OF SUBSTANTIAL INJURY AND TENDENCY TO SUBSTANTIALLY INJURE

175. SI Group re-alleges paragraphs 1 through 174 as if fully alleged herein.

176. The actual, threatened, inevitable and imminent misappropriation of the SI Group Trade Secrets by Respondents has and will increasingly continue to put SI Group at a significant competitive disadvantage and, in the process, substantially and irreparably injure, threaten substantial and irreparable injury to and create a tendency to substantially and irreparably injure the domestic industry.

177. Such injury has included and threatens to further include diminished secrecy or confidentiality of the SI Group Trade Secrets.

178. Such injury will include Respondents' relatively rapid entry into the U.S. tackifier market at the expense of SI Group's market share and its very own intellectual property, namely, the SI Group Trade Secrets.

179. Such injury has included and threatens to further include Sino Legend's unfairly and illegitimately obtained head start in the tackifier industry by virtue of misappropriating SI Group's Trade Secrets.

180. By unfairly and directly competing, Sino Legend will capture SI Group's market share significantly sooner than it would have been able to had Sino Legend not misappropriated SI Group's Trade Secrets.

181. For example, Respondents have relied on and used, are relying on and using and threaten to continue to rely on and use one or more of the SI Group Trade Secrets in connection

with manufacturing product which Respondents then imported in sufficient quantity to seek and obtain domestic tire plant qualifications.

182. SI Group will also be harmed by Respondents' targeting of SI Group's distributors and channels, and in turn pilfering SI Group's customers for tackifiers in the United States.

183. Sino Legend's marketing of tackifier within the United States and pilfering SI Group's distribution relationships and channels; accumulating and maintaining commercially significant domestic inventory; and offering tackifier for sale within the United States made using SI Group's Trade Secrets (as well as importing, selling for importation and selling within the United States after importation), threatens to substantially injure SI Group by, *inter alia*, significantly reducing SI Group's revenue due to the loss of market share to Sino Legend.

184. Sino Legend's misappropriation will also tend to lower tackifier prices, which in turn threatens to significantly impair appropriate returns on SI Group's significant investments and the ability to continue to employ and maintain currently assembled and configured domestic work forces.

185. Thus, because of the misappropriation of the SI Group Trade Secrets, Respondents have unfairly and wrongfully derived a substantial commercial advantage in the form of a reasonable likelihood of rapid entry and capturing of market share in the domestic tackifier market.

186. But for the misappropriation, Respondents would currently be incapable of manufacturing SP-1068 types of tackifier, seeking domestic tire plant qualifications, marketing within the United States, or importing and selling a commercially significant inventory of competing SP-1068 type tackifier.

187. Unless the Commission issues an appropriate exclusion order (including but not limited to a general exclusion order and in the alternative a limited exclusion order), cease and desist order, and/or other relief that this Commission deems just and proper, Respondents will continue to wrongfully disclose, rely on and use the SI Group Trade Secrets to manufacture and import and sell increasingly large additional commercial quantities of SI Group type tackifiers thereby further substantially and irreparably injuring, and further threatening substantial and irreparable injury, to SI Group.

188. The foregoing conditions and circumstances are conditions and circumstances from which probable future substantial and irreparable injury to the domestic industry reasonably can be inferred.

XII. RELIEF REQUESTED

1. WHEREFORE, by reason of the foregoing, SI Group requests that the United States International Trade Commission:
 - a. institute an immediate investigation, pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, with respect to violations of that section based upon Respondents' unlawful importation into the United States, sale for importation into the United States, and/or sale within the United States after importation of certain products comprising rubber resins, including but not limited to tackifiers, manufactured by or on behalf of Respondents using a process that includes SI Group Trade Secrets;
 - b. determine that Respondents' importation, sale for importation and/or sale after importation, into or within the United States, of products comprising rubber resins, including but not limited to tackifiers, manufactured by or on behalf of Respondents using a process that includes SI Group Trade Secrets, constitute one

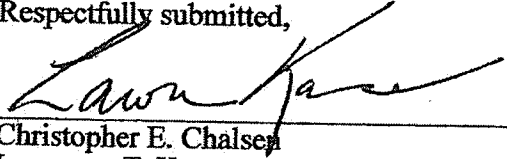
or more violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337;

- c. issue an exclusion order pursuant to 19 U.S.C. § 1337(d), including but not limited to a general exclusion order and in the alternative a limited exclusion order, excluding from entry into the United States all products imported, sold for importation, and/or sold after importation, into or within the United States, comprising rubber resins, including but not limited to tackifiers, manufactured by or on behalf of Respondents or any of their shareholders using a process that includes SI Group Trade Secrets, that is permanent or for a period of years to be determined by the Commission;
- d. issue a permanent cease and desist order pursuant to 19 U.S.C. § 1337(f), prohibiting the sale, distribution or other use of any inventories of such products within the United States at the time of the entry of any order; and
- e. grant such other and further relief as the Commission deems just and proper under the law, based on the facts determined by the investigation and the authority of the Commission.

Dated: May 21, 2012

Respectfully submitted,

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