UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.

In the Matter of **CERTAIN POWER CONVERTERS, CIRCUIT BOARD ASSEMBLIES, AND COMPUTING SYSTEMS CONTAINING THE SAME**	**Investigation No. 337-TA-3936**

MOTION FOR LEAVE TO FILE OUT OF TIME
PURSUANT TO 19 CFR § 210.8(c)(1)

This motion is respectfully made for leave to file out of time pursuant to 19 CFR § 210.8(c)(1) responsive to the Commission's Notice of September 14, 2026 at 91 Fed. Reg. 58175. On September 22, 2026, a "Request for Non-Institution & Public Interest Statement of Proposed Respondent Celestica Inc." was filed, but after the Commission's 5:15pm deadline due to log-in issues encountered with EDIS and Login.gov. Thus, the subject motion is made as per instructions by the Commission's docketing personnel.

Good cause exists for leave because the late submission was inadvertent, caused by unforeseen security log-in issues. The content of the present submission is identical to the original submission, served on Complainant's counsel at that time by email, and will inform the Commission's upcoming decisions as to institution and public interest.

Leave is thus respectfully requested to file out of time as to this submission under 19 CFR § 210.8(c)(1), resubmitted as Exhibit A.

DATED: September 23, 2026

Respectfully submitted,

/s/ Joshua B. Pond

Timothy J. Carroll
Thomas James
ORRICK, HERRINGTON & SUTCLIFFE LLP
53 North Clark Street, Suite 3600
Chicago, IL 60654
Telephone:(312) 924-9800

Joshua B. Pond
ORRICK, HERRINGTON & SUTCLIFFE LLP
2100 Pennsylvania Ave. NW
Washington, D.C. 20037
Telephone:(202) 339-8400

Laura A. Wytsma
ORRICK, HERRINGTON & SUTCLIFFE LLP
355 South Grand Avenue, Suite 2700
Los Angeles, CA 90071
Telephone:(213) 629-2020

Email: Celestica-ITC_OHS@orrick.com

Counsel for Proposed Respondent Celestica Inc.

Exhibit A

UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.

In the Matter of **CERTAIN POWER CONVERTERS, CIRCUIT BOARD ASSEMBLIES, AND COMPUTING SYSTEMS CONTAINING THE SAME**	**Investigation No. 337-TA-3936**

REQUEST FOR NON-INSTITUTION & PUBLIC INTEREST STATEMENT OF PROPOSED RESPONDENT CELESTICA INC.

The subject Complaint seeks exclusion of vertical power delivery ("VPD") technologies critical to data centers and consequentially critical to national security and healthcare. Such exclusion would be particularly contrary to urgent U.S. policy interests in promoting development and operation of artificial intelligence (AI) infrastructure. Such exclusion would moreover disrupt AI supply chains, undermine AI infrastructure operation, and stifle economic growth in this critically important technology sector. The attendant public interest concerns are magnified as this is Complainant's second action against AI components. *See* ITC Inv. No. 337-TA-1484. Further, the Complaint does not warrant institution as to Celestica, as it fails to plausibly plead importation or infringement—it alleges only what a Celestica employee at a "Thailand location" supposedly said about proposed respondent Flex's accused VPD product; this allegation is below the Commission's institution standard as to Celestica, and offers no support whatsoever as to the Complaint's further bald infringement and importation allegations as to Celestica regarding VPD products from proposed respondents Delta, Luxshare and MPS.

I. THE REQUESTED REMEDIAL ORDERS ARE NOT IN THE PUBLIC INTEREST

The Complaint seeks the exclusion of VPD technologies essential to AI data centers, as admitted in the Complainant's own Public Interest Statement (at 1), contrary to established public interest factors, as described in the four sections that follow. *See* S. Rept. No. 93-1298, 93rd Cong., 2d Sess. 197 (1974) (listing issues of public interest); *see also Certain Automatic Crankpin Grinders*, Inv. No. 337-TA-60, USITC Pub. 1022 (1979).

A. Excluding VPD Technologies Raises Meaningful Public Health, Safety, and Welfare Concerns

Complainant concedes relief may be precluded in cases involving "key national interests," then flippantly asserts none "are at play here." Public Interest Stmt. at 4. The Complainant is wrong; the relief sought would deeply impact "key national interests" and undermine urgent U.S.

policy on AI infrastructure, which is imperative to countless vital U.S. industries including pharmaceutical and medical research.[1,2] VPD is an essential technology enables efficient delivery of high-density electrical current to AI processors by mounting power conversion modules on the underside of the motherboard, directly opposite the GPU or AI ASIC, and is used in datacenters.

Given the importance of AI technology for "protecting national security [and] preserving our economic competitiveness," the "development and operation of AI infrastructure" is a formal "policy of the United States."[3,4,5] A 2025 "AI Action Plan" emphasizes that AI technology is a "national security imperative" and specifically identifies AI infrastructure as one of three defining "pillars" of this country's AI policy.[6] Simultaneously excluding the accused VPD products would disrupt data center development in the United States.

B. Excluding VPD Technologies Would Harm Competitive Conditions

The Complaint seeks relief against key suppliers of VPD technologies used by major U.S. cloud and AI platforms. This VPD market is small; and the Complaint seeks to vastly reduce its competition through exclusion. That contraction would adversely affect competitive conditions by increasing pricing pressure, forcing costly redesigns, and delaying deployment of core data center infrastructure.

C. There Are Insufficient Competitive Articles and Capacity to Replace the Accused VPD Technologies in a Commercially Reasonable Time

The Complaint vaguely claims that it, its OEM licensees, or other unidentified companies

[1] N. Lee & D. West, "The Future of Data Centers," Brookings (Nov. 5, 2025), *available at* https://www.brookings.edu/articles/the-future-of-data-centers/.

[2] *See* https://www.celestica.com/our-expertise/platform-solutions/overview.

[3] Advancing United States Leadership in Artificial Intelligence Infrastructure, 90 Fed. Reg. 5649 (Jan. 17, 2025).

[4] Executive Order 14318, available at DCPD-202500788.pdf.

[5] Executive Order 14409, available at DCPD-202600376.pdf.

[6] "Winning the Race: America's AI Action Plan," The White House (July 2025), *available at* https://www.whitehouse.gov/wp-content/uploads/2025/07/Americas-AI-Action-Plan.pdf

have the capacity to replace the numerous accused vertical power delivery products. Public Interest Stmt. at 4. However, Complainant Vicor's own SEC filings demonstrate its inability to replace the accused vertical power delivery products: In March 2026, Vicor reported product lead times of 22 to 28 weeks; a backlog of almost $177M; capacity constraints; and extended design and qualification cycles.[7] Indeed, Vicor's Q1 2026 10-Q reveals that its backlog surged to approximately $300.6 million by March 2026—a nearly 60% increase in a single quarter.[8] Vicor's backlog increased again in Q2 2026 to $379,736,000.[9] Coupled with this SEC filing, the Complaint's conclusory, unsubstantiated assertion that "competitive substitutes abound" (Public Interest Stmt. at 4) or that Vicor and others could fully satisfy the rapidly escalating demand for the accused VPD products required by AI infrastructure highlights the significant risk that any exclusion order would harm the public interest.

D. The Requested Relief Would Harm U.S. Consumers

Consumers increasingly rely on cloud and AI services in virtually all aspects of their daily life—from healthcare diagnostics and financial services to education and transportation.. If the products are excluded, respondents must redesign systems, requalify components, or procure interim solutions at significantly higher cost—costs that will be passed on to U.S. consumers.

II. NO INVESTIGATION SHOULD BE INSTITUTED AS TO CELESTICA

A section 337 violation requires "prov[ing] that a respondent actually imported or sold for importation" infringing articles. *Certain Carbon and Alloy Steel Products*, Inv. No. 337-TA-1002, ID, 2017 WL 5167413, at *18 (Oct. 2, 2017), *not reviewed by* Comm'n Notice (Nov. 1, 2017); *see*

[7] Vicor Corporation, Form 10-K for fiscal year ended December 31, 2025, *available at* Form 10-K for Vicor Corp filed 03/02/2026. Notably, Vicor intends to increase sales through "intellectual property licensing among relatively fewer customers." *Id.*

[8] Vicor Corporation, Form 10-Q for Q1 2026, available at Form 10-Q for Vicor Corp filed 04/30/2026.

[9] Vicor Corporation, Form 10-Q for Q2 2026, available at Form 10-Q for Vicor Corp filed 07/29/2026.

also 19 U.S.C. § 1337(a)(1)(B)(i). Thus, an ITC complaint must "[d]escribe *specific* instances of alleged unlawful importations or sales" and include a "*showing*" that each proposed respondent "is importing or selling [an] article covered by … specific [patent] claims." Commission Rules 210.12(a)(3), 210.12(a)(9)(viii) (emphasis added). Further, "broad allegations" fail to satisfy the "'specific instances' of importation" requirement. *Certain Wireless Communication Chips*, Inv. No. 337-TA-614, Order No. 5, 2007 WL 3342252 at *8, (Oct. 18, 2007) (not reviewed). If a complaint fails to identify such "specific instances," institution is denied. *See*, *e.g., Certain Raised Garden Beds*, Inv. No. 337-TA-1334, Letter from Sec'y K. Hiner, Doc. ID 782236 (Oct. 13, 2022) (denying institution as to nine proposed respondents for insufficiently alleging importation).

As to Celestica, the Complaint lacks the required specific showing of importation. The Complaint alleges that "a Vicor employee visited Celestica's Thailand location" and was told that "Celestica Thailand" manufactured a Google TPUv5 system using a Flex VPD Module. Compl. ¶¶ 97, 105. Because this Google system is alleged to be used in the United States, the Complaint alleges that Celestica "necessarily" satisfies the importation requirement. But the Complaint neither describes nor shows any "specific instance" of importation ***by*** Celestica, even as to Google's TPUv5 system alleged to include a Flex module. Moreover, there are ***zero*** facts alleged against Celestica relating to the other proposed respondent VPD suppliers Delta, Luxshare and MPS. Accordingly, institution should be declined. *See Certain Semiconductors & Devices & Products Containing the Same, Including Printed Circuit Boards, Automotive Parts, & Automobiles*, Inv. No. 337-TA-1332, Letter to C. Lehman at 1 (Oct. 7, 2022) (EDIS Doc ID 781870) (declining institution on the mere inference of importation where a vehicle was inspected in the U.S.; contained a label stating it was made in Japan; and evidence was offered that dealers sell the vehicle in the United States); *see also Certain Disposable Vaporizer Devices &*

Components & Packaging Thereof, Inv. No. 337-TA-1381, Letter to H. Davis at 1 (Dec. 15, 2023) (EDIS Doc ID 810442).

The Complaint's allegations that Celestica infringes claims 1–8, 11, 14, 18–26, 40–56, 65–71, 80, 81, 83, 84, 90–93, and 95 of the '734 patent (Compl. ¶¶142-43) also fail. For example, 19 C.F.R. § 210.12(a)(3) requires a "showing that each person named as violating section 337 of the Tariff Act of 1930 is importing or selling ***the article covered by*** … the specific, asserted claims of each involved U.S. patent." The Complaint merely provides unreliable evidence of supposed inclusion of Flex VPD modules in Celestica's *unidentified* products. The Complaint's allegations against Delta (Compl., Ex. 27) for claims 40 and 49 are illustrative of the unidentified product problem. There, the Complaint alleges that "Delta VPD Module is part of *[the claimed]* "[a]n apparatus" without specifying what that apparatus is or who sells or imports it. It is blackletter law that "[t]o prove literal infringement, the patentee must show that the accused device contains each and every limitation of the asserted claims." *Ericsson, Inc. v. D–Link Sys., Inc.*, 773 F.3d 1201, 1215 (Fed. Cir. 2014). Further, Celestica cannot infringe the method claims (e.g., cls. 1, 2, 45) as it does not "assembl[e] the power conversion module" as required by these claims, and the Complaint does not make any such allegation against Celestica. The Commission should not institute this investigation as to Celestica because it fails to meet the requirements of Section 337 as many of the asserted claims fail on their face, and because the Complaint has provided no meaningful evidence of sale or import as to Celestica. *See Amarin Pharma, Inc. v. Int'l Trade Comm'n*, 923 F.3d 959, 965 (Fed. Cir. 2019); *see also Syntex Agribusiness, Inc. v. U. S. Int'l Trade Comm'n,* 659 F.2d 1038, 1044 (C.C.P.A. 1981) (affirming the ITC's decision not to institute an investigation for failure to include mandatory contents of the § 337 complaint).

DATED: September 23, 2026

Respectfully submitted,

/s/ Joshua B. Pond

Timothy J. Carroll
Thomas James
ORRICK, HERRINGTON & SUTCLIFFE LLP
53 North Clark Street, Suite 3600
Chicago, IL 60654
Telephone:(312) 924-9800

Joshua B. Pond
ORRICK, HERRINGTON & SUTCLIFFE LLP
2100 Pennsylvania Ave. NW
Washington, D.C. 20037
Telephone:(202) 339-8400

Laura A. Wytsma
ORRICK, HERRINGTON & SUTCLIFFE LLP
355 South Grand Avenue, Suite 2700
Los Angeles, CA 90071
Telephone:(213) 629-2020

Email: Celestica-ITC_OHS@orrick.com

Counsel for Proposed Respondent Celestica Inc.

CERTIFICATE OF SERVICE

I hereby certify that the foregoing was served on September 23, 2026 upon the following parties as indicated:

The Honorable Lisa R. Barton Secretary to the Commission U.S. INTERNATIONAL TRADE COMMISSION 500 E Street, SW, Room 112 Washington, D.C. 20436	☐ Via First Class Mail ☐ Via Overnight Courier ☐ Via Hand Delivery ☒ Via EDIS Electronic Filing
On behalf of Complainant Vicor Corporation: Louis S. Mastriani Lloyd Smith BUCHANAN INGERSOLL &ROONEY PC 1700 K Street N.W., Suite 300 Washington, D.C. 20006-3807 Telephone: (202) 407-7900 Facsimile: (202) 452-7989 Erin A. Napoleon BUCHANAN INGERSOLL &ROONEY PC Two Liberty Place 50 S. 16th Street, Suite 3200 Philadelphia, PA 19102-2555 Telephone: (215) 665-8700 Facsimile: (215) 665-8760 Email: VICORII-ITC@bipc.com Oleg Elkhunovich SUSMAN GODFREY LLP 1900 Avenue of the Stars, Suite 1400 Los Angeles, California 90067-6029 Telephone: (310) 789-3100 Facsimile: (310) 789-3150 Steven Seigel Andres Healy Jenna Farleigh SUSMAN GODFREY LLP 401 Union Street, Suite 3000 Seattle, Washington 98101-3000 Telephone: (206) 516-3880 Facsimile: (206) 516-3883 Dinis Cheian SUSMAN GODFREY LLP One Manhattan West	☐ Via First Class Mail ☐ Via Express Mail ☐ Via Hand Delivery ☒ Via Electronic Mail

New York, NY 10001-8602 Telephone: (212) 336-8330 Facsimile: (212) 336-8340 Isabella Soparkar SUSMAN GODFREY LLP 1000 Louisiana Street, Suite 5100 Houston, Texas 77002-5096 Telephone: (713) 651-9366 Facsimile: (713) 654-6666 Email: VICORII-ITC@susmangodfrey.com	

/s/ Cheryl Watson
Cheryl Watson