



**Proposed Determination of Action Pursuant to Section 301: China's Acts, Policies, and Practices
Related to Technology Transfer, Intellectual Property, and Innovation
Office of the United States Trade Representative**

**Comments of Daniel Patrick McGahn
President and Chief Executive Officer
American Superconductor Corporation**

May 15, 2018

INTRODUCTION

Thank you for providing the opportunity to testify today on behalf of American Superconductor Corporation.

My testimony today will focus on our unique experience with IP theft and our pursuit of legal actions against the Chinese company that stole our intellectual property. I also want to talk about the Administration's proposed actions and restitution for American companies harmed by Chinese IP theft.

CHINESE SOE THEFT OF AMSC IP AND TRADE SECRETS

AMSC has actively participated in the 301 proceeding since the investigation began in August 2017. We provided extensive information regarding the theft of AMSC's technology by a Chinese state-owned enterprise, Sinovel Wind Group, Ltd. ("Sinovel"). Sinovel stole AMSC's proprietary software to produce and retrofit its own wind turbines in China. Sinovel also supplied wind turbines containing the stolen IP, and funded by American taxpayers money, to the commonwealth of Massachusetts—where AMSC is headquartered.

Sinovel's criminal actions harmed the lives of hundreds of workers, severely impeded the company's growth, and nearly destroyed AMSC:

- Over 700 AMSC employees lost their jobs
- AMSC lost over 96 percent of its stock value, more than \$1 billion dollars; and
- AMSC lost contracted revenues and profits of over \$1.2 billion dollars. The Department of Justice has calculated the damages to be a multiple of this loss, with a maximum fine of \$4.8 billion dollars.

China has actually profited from Sinovel's theft of AMSC's intellectual property: Approximately 8,000 of China's wind turbines continue to operate on AMSC's stolen software and we estimate that Chinese state-owned power companies benefited by \$15 to \$20 billion dollars from AMSC's stolen software.

AMSC has never been compensated for its losses, but a recent federal court ruling provides hope for us and other harmed companies. In January, a jury found Sinovel guilty of stealing AMSC's technology. We are cautiously optimistic that the court will provide restitution to AMSC. Subsequently, the

Department of Justice issued a letter to Sinovel in which it states, and I quote, “The United States is exploring all avenues to collect restitution.”

AMSC’S EFFORTS TO SEEK JUSTICE THROUGH THE CHINESE LEGAL SYSTEM

Let me now turn to AMSC’s pursuit of justice through the Chinese legal system.

In September 2011, nearly seven years ago, AMSC filed litigation in the Chinese courts for approximately \$1.2 billion in damages. To date, the Chinese legal system has yet to render a decision.

China suggests it has demonstrated its commitment to protect intellectual property rights. For example, in 2014 China established several specialized IP courts to showcase China’s commitment to improve IP protection. In 2015, President Xi Jinping spoke at length on punishing wrong doers on cybertheft of commercial secrets and on protecting the lawful rights and interests of foreign companies in China. China’s actions showcased the failure of China’s legal system. After AMSC’s two criminal convictions, our case becomes a clear opportunity for China to translate its rhetoric into reality. Restitution to AMSC will become a testament to President Xi’s rhetoric.

RESTITUTION FOR AMERICAN COMPANIES HARMED BY CHINESE IP THEFT

Hundreds, perhaps thousands, of other American companies likely have gone or are going through a similar ordeal with respect to Chinese IP theft. We believe direct government-to-government negotiation is necessary to address IP theft and hold China accountable for its practices. We applaud the Administration’s determination to take action pursuant to the Section 301 investigation.

American workers, American companies and the U.S. economy have suffered as a result of China’s failure to respect and protect intellectual property rights. There is an opportunity for the Administration and Congress to work together to establish a mechanism to provide restitution to American companies economically harmed by Chinese IP theft.

Funding for such a program would derive from trade sanctions imposed by the President, including the tariffs on imports from China. We would be pleased to discuss our ideas with the Administration and Members of Congress.

CONCLUSION

In conclusion, AMSC wants to thank the President and his team for initiating and conducting this important investigation. The U.S. action in response to China’s IP theft is long overdue. We’ve been at this for seven years, have two criminal convictions and overwhelming facts. If we cannot get restitution, then why would any other American CEO seek help from the U.S. government?

We look forward to working with the Administration and Congress to ensure restitution for American companies harmed by Chinese IP theft.

Thank you for the opportunity to present our comments. If you have any questions regarding our testimony, please contact Daniel Patrick McGahn, President and Chief Executive Officer of AMSC, at (978) 842-3230.