Docket No. USTR-2018-0005

PROPOSED DETERMINATION OF ACTION PURSUANT TO SECTION 301 OF THE TRADE ACT OF 1974 IN RESPONSE TO CHINA'S ACTS, POLICIES, AND PRACTICES RELATED TO TECHNOLOGY TRANSFER, INTELLECTUAL PROPERTY, AND INNOVATION

Hearing Testimony
Partially Opposing The Proposed Increased In Duties That Would Disrupt The U.S. Economy, Harm U.S. Consumers, And Fail To Effectively Eliminate The Chinese Technology Acts And Policies At Issue.

Filed On Behalf Of LBC Bakery Equipment, Inc
Brian Smith, General Manager/CFO

Good afternoon. My name is Brian Smith, and I am the General Manager and CFO of LBC Bakery Equipment, Inc. headquartered in Marysville, Washington. I am here today to ask you to not include certain bakery equipment on any retaliation list, as including these products will only hurt U.S. businesses like mine and the customers who use our products, including schools, hospitals, and other community facilities.

LBC Bakery Equipment, Inc. (LBC) designs, engineers, imports, sells and supports several lines of bakery ovens (primarily rack ovens) and bakery proofers. This equipment is imported from China under HTS subheading 8419.81.50, with spare parts imported under HTS subheading 8419.90.95, both of which are on the list of HTS subheadings to be assessed the additional 25% tariff as proposed by the USTR. LBC has imported rack ovens and proofers from the same factory in China since 2005. This factory began producing rack ovens and proofers for other customers in 1998. Both this factory and LBC are currently majority-owned by a Taiwanese company, which itself began producing bakery equipment in 1988.

The bread baking process typically consists of proofing dough, and then baking it. A proofer is a device in which dough is stored while the yeast does its work, and the oven, of course, is where the dough is baked. As is standard in the industry, LBC's rack ovens are rotating rack ovens in which the rack spins while the bread bakes.

Bakery ovens and proofers are sold to a wide variety of customers in the United States. Small and medium size customers include independently owned bakeries, school cafeterias and school district commissaries, colleges and universities, hospitals, rehabilitation facilities, state and local correctional systems, single location grocery stores or restaurants, and small grocery store or restaurant chains, having a few to a few dozen locations. Large customers primarily include supermarket chains with hundreds or thousands of locations, and large hotel chains. Approximately 75% of LBC's customer base in 2017 consisted of small to medium size end users.

While hard statistics are difficult to come by in our industry, it is widely believed that the U.S. market for rack ovens and proofers is dominated by only three suppliers, with LBC being either the 2nd or 3rd largest.

We understand the various concerns that our Government has with the policies outlined in the Trade Representative's notice, and we fully support our Government's initiative to ensure that everyone competes fairly. It's the American Way. However, the acts identified by the Trade Representative do not apply to LBC or its products. To manufacture rack ovens and proofers in China, the Chinese government did not invest in LBC, did not require LBC to enter into a joint venture, and did not require LBC to transfer intellectual property to China or a Chinese company. Chinese regulations did not force non-market terms on LBC's licenses or any technology related contracts.

In fact, when it comes to technology, bakery rack ovens and bakery proofers are far from "cutting-edge". People have been proofing dough and baking bread for thousands of years. The rack oven itself, which is the primary item in question, was invented by a European company in the 1950s, and there has been little in the way of innovation in these products over the past 20 years. Of the innovation which has taken place in recent years, much of it is related to energy efficiency, with LBC's double-rack gas oven being the clear leader among the three main competitors per published test results issued by the independent testing agency, Fisher Nickel. Among rack ovens, the double-rack gas oven is one of the most common ovens sold in the U.S.

So, we ask you to refrain from dragging us and our customers, the majority of whom are small and medium-sized, into this fight with which we have little to do. Respectfully, I believe that including our products in the retaliation list would be ineffective and would create other problems. It would result in the following:

1) Very little, if any, pressure will be placed on China to reform the acts, policies and practices identified by the Trade Representative.

2) A much-needed competitor in this industry will be greatly handicapped and possibly eliminated.

3) The cost of rack ovens and proofers for all customers in the U.S., particularly small-to-medium sized end users, will increase.

4) The cost of maintaining equipment owned by hundreds or thousands of customers in the U.S. will increase.

Regarding bakery ovens and proofers, we believe the cost to the U.S. consumer will exceed the benefit, if any, to the U.S. economy derived by application of the additional tariff to these products. On behalf of my company, our workers, and our community-based customers, I thank you for the time to explain our position, and I respectfully ask that you not include our products in any retaliation list.