

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN AUTOMATED MECHANICAL
TRANSMISSION SYSTEMS FOR
MEDIUM-DUTY AND HEAVY-DUTY
TRUCKS AND COMPONENTS THEREOF**

Inv. No. 337-TA-503

**NOTICE OF COMMISSION DECISION NOT TO REVIEW
AN INITIAL DETERMINATION THAT COMPLAINANT DOES NOT MEET THE
TECHNICAL PRONG OF THE DOMESTIC INDUSTRY REQUIREMENT
AS TO ONE PATENT**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's ("ALJ's") initial determination ("ID")(Order No. 30) that complainant does not meet the technical prong of the domestic industry requirement as to one asserted patent, U.S. Patent No. 5,624,350 ("the '350 patent"). Accordingly, the investigation is terminated as to the '350 patent.

FOR FURTHER INFORMATION CONTACT: Wayne Herrington, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3090. Copies of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on January 7, 2004, based on a complaint filed by Eaton Corporation of Cleveland, Ohio. 69 *Fed. Reg.* 936 (January 7, 2004). The complaint, as supplemented, alleged violations of section 337 of the Tariff Act of 1930 in the importation into the United States, the sale for importation, and

the sale within the United States after importation of certain automated mechanical transmissions for medium-duty and heavy-duty trucks, and components thereof, by reason of infringement of claim 15 of U.S. Patent No. 4,899,279 (“the ‘279 patent”); claims 1-20 of U.S. Patent No. 5,335,566 (“the ‘566 patent”); claims 2-4 and 6-16 of U.S. Patent No. 5,272,939 (“the ‘939 patent”); claims 1-13 of U.S. Patent No. 5,624,350 (“the ‘350 patent”); claims 1, 3, 4, 6-9, 11, 13, 14, 16, and 17 of U.S. Patent No. 6,149,545 (“the ‘545 patent”); and claims 1-16 of U. S. Patent No. 6,066,071 (“the ‘071 patent”). The complaint and notice of investigation named three respondents: ZF Meritor LLC, of Maxton, North Carolina; ZF Friedrichshafen AG, of Friedrichshafen, Germany; and ArvinMeritor, Inc., of Troy, Michigan.

On July 21, 2004, the Commission issued notice that it had determined not to review ALJ Order No. 20, terminating the investigation as to the ‘071 patent and as to claims 2, 3, and 5-20 of the ‘566 patent, claims 4, 7, and 12 of the ‘350 patent, and claims 4, 8-9, and 14 of the ‘545 patent. On August 11, 2004, the Commission issued notice that it had determined not to review ALJ Order No. 31, terminating the investigation as to the ‘939 patent and as to claims 10, 11, and 13 of the ‘350 patent.

On June 3, 2004, pursuant to Commission rule 210.18, respondents moved for summary determination that complainant does not meet the technical prong of the domestic industry requirement as to the ‘350 patent. On July 22, 2004, the ALJ issued the subject ID granting respondents’ motion. In that ID, the ALJ construed the relevant claim language, found that there was no genuine issue of material fact as to the relevant structure and operation of the article relied upon by complainant, and concluded that that article was not covered by the relevant claim, either literally or under the doctrine of equivalents. With respect to the doctrine of equivalents, the Commission understands the ALJ’s conclusion to be that to accept complainant’s equivalents argument would impermissibly eliminate the relevant claim limitation. Complainant petitioned for review of the subject ID. Respondents and the Commission investigative attorney filed oppositions to that petition.

The authority for the Commission’s determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and in section 210.42 of the Commission’s Rules of Practice and Procedure (19 C.F.R. § 210.42).

By order of the Commission.

Marilyn R. Abbott
Secretary to the Commission

Issued: August 23, 2004