

**UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.**

In the Matter of

**CERTAIN MOTORIZED VEHICLES
AND COMPONENTS THEREOF**

**Investigation No. 337-TA-1132
(Modification)**

MODIFIED LIMITED EXCLUSION ORDER

The United States International Trade Commission (“Commission”) has determined that there is a violation of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), in the unlawful importation, sale for importation, or sale within the United States after importation by respondents Mahindra & Mahindra Ltd. of Mumbai, India and Mahindra Automotive North America, Inc. of Auburn Hills, Michigan (collectively, “Mahindra” or “Respondents”) of motorized vehicles, kits and assemblies for motorized vehicles, and replacement and aftermarket components for motorized vehicles that infringe the asserted trade dress in the above-captioned investigation (“the Jeep Trade Dress”). The Jeep Trade Dress consists of “the overall exterior appearance and styling of the [Jeep CJ and Jeep Wrangler] vehicle design,” including:

- (i) A boxy body shape with flat appearing vertical side and rear body panels ending at about the same height as the hood;
- (ii) Substantially flat hood with curved side edges that tapers to be narrower at the front;
- (iii) Trapezoidal front wheel wells with front fenders or fender flares that extend beyond the front of the grille;
- (iv) Flat appearing grille with vertical elongated grille slots and a trapezoidal outline that curves around round headlamps positioned on the upper part of the grille;
- (v) Exterior hood latches; and
- (vi) Door cutouts above a bottom portion of the side body panels.

Having reviewed the record of this investigation, including the written submissions of the parties, the Commission has made its determination on the issues of remedy, public interest, and bonding. The Commission has determined that the appropriate form of relief includes a limited exclusion order prohibiting the unlicensed entry of covered motorized vehicles, kits and assemblies for motorized vehicles, and replacement and aftermarket components for motorized vehicles, manufactured abroad by or on behalf of, or imported by or on behalf of, Respondents or any of their affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns.

The Commission has also determined that the public interest factors enumerated in 19 U.S.C. § 1337(d) do not preclude the issuance of the limited exclusion order, and that the bond during the period of Presidential review shall be in the amount of one hundred (100) percent of the entered value of infringing finished motorized vehicles and ten (10) percent of the entered value of any components thereof. Thereafter, the Commission conducted a modification proceeding to adjudicate Respondents' Post-2020 ROXOR vehicle and determined that it does not infringe the Jeep Trade Dress and is outside the scope of this Order. The Commission therefore modifies this Order to include an exemption with respect to Respondents' Post-2020 ROXOR vehicle.

Accordingly, the Commission hereby ORDERS that:

1. Motorized vehicles, kits and assemblies for motorized vehicles, and replacement and aftermarket components for motorized vehicles that infringe the Jeep Trade Dress and that are manufactured by, or on behalf of, or are imported by or on behalf of Respondents or any of their affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns (“covered articles”), are excluded from entry for consumption into the

United States, entry for consumption from a foreign-trade zone, or withdrawal from a warehouse for consumption, until the Jeep Trade Dress has been abandoned or rendered invalid or unenforceable, except under license from, or with the permission of, the trade dress owner or as provided by law, and except for service or repair components imported for use in servicing or repairing covered articles that were imported prior to the effective date of this Order.

2. For the purpose of assisting U.S. Customs and Border Protection (“CBP”) in the enforcement of this Order, and without in any way limiting the scope of the Order, the Commission has attached images of the Jeep CJ and Jeep Wrangler vehicles that feature the Jeep Trade Dress as Exhibit 1.

3. Prior to the importation of covered articles that may be subject to this Order, any of the persons listed in paragraph 1 of this Order must seek a ruling from the Commission to determine whether the covered articles sought to be imported are covered by this Order.

4. This Order does not apply to Respondents’ Post-2020 ROXOR vehicle, which, as the Commission determined in this modification proceeding, does not infringe the Jeep Trade Dress.

5. Notwithstanding paragraph 1 of this Order, the aforesaid covered articles are entitled to entry into the United States for consumption, entry for consumption from a foreign trade zone, or withdrawal from a warehouse for consumption, under bond in the amount of one hundred (100) percent of the entered value of infringing finished motorized vehicles and ten (10) percent of the entered value of any components thereof, pursuant to subsection (j) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337(j)), and the Presidential Memorandum for the United States Trade Representative of July 21, 2005, (70 FR 43251), from the day after this Order is received by the United States Trade Representative, and until such time as the

United States Trade representative notifies the Commission that this Order is approved or disapproved but, in any event, not later than sixty (60) days after the date of receipt of this Order. All entries of covered articles made pursuant to this paragraph are to be reported to CBP in advance of the date of the entry, pursuant to procedures CBP establishes.

6. At the discretion of CBP, and pursuant to the procedures it establishes, persons seeking to import covered articles that are potentially subject to this Order may be required to certify that they are familiar with the terms of this Order, that they have made appropriate inquiry, and thereupon state that, to the best of their knowledge and belief, the products being imported are not excluded from entry under paragraph 1 of this Order. At its discretion, CBP may require persons who have provided the certification described in this paragraph to furnish such records or analyses as are necessary to substantiate this certification.

7. The Commission may modify this Order in accordance with the procedures described in Rule 210.76 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.76).

8. The Secretary shall serve copies of this Order upon each party of record in this Investigation and upon CBP.

9. Notice of this Order shall be published in the Federal Register.

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: December 22, 2020

EXHIBIT 1





PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER, COMMISSION** has been served via EDIS upon the Commission Investigative Attorney, **Vu Bui, Esq.** and the following parties as indicated, on **December 23, 2020**.



Lisa R. Barton, Secretary
U.S. International Trade Commission
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