

In the Matter of

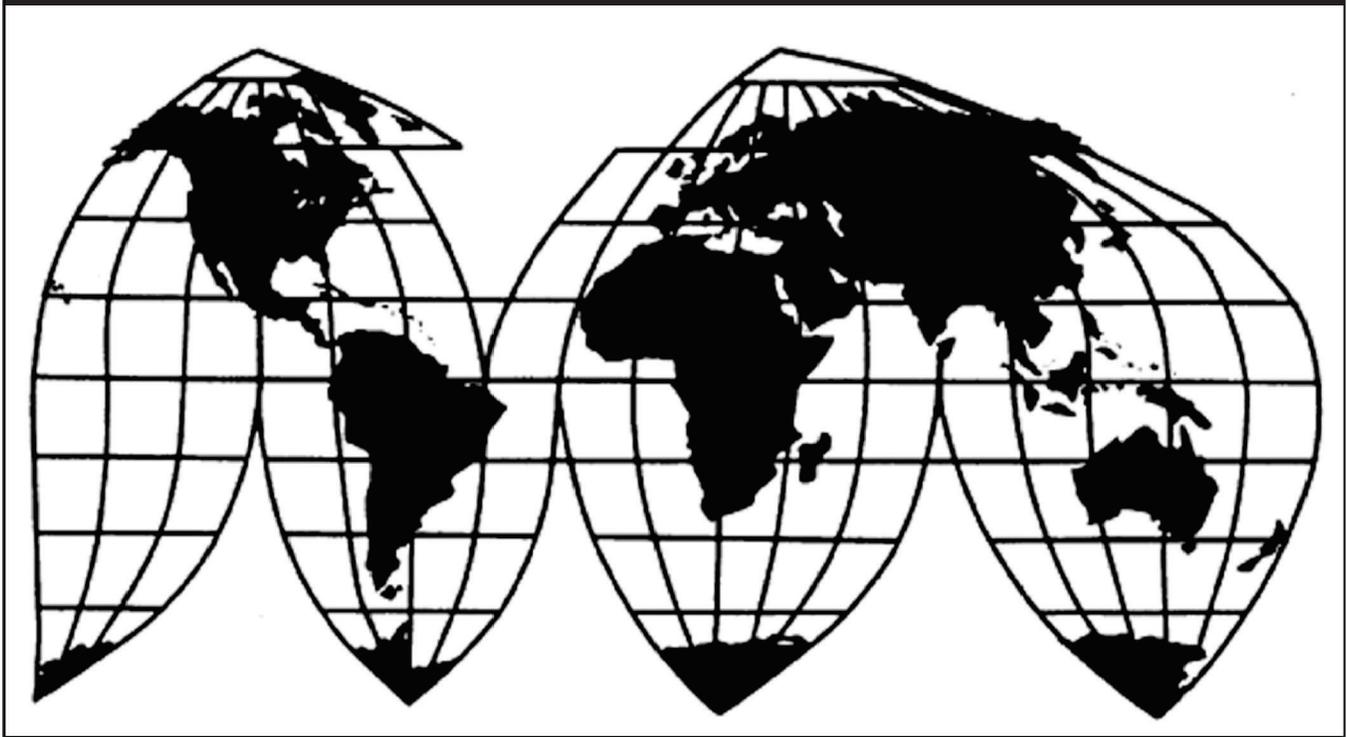
**CERTAIN INTRAVASCULAR
ADMINISTRATION SETS AND
COMPONENTS THEREOF**

Investigation No. 337-TA-1048

Publication 4967

September 2019

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

COMMISSIONERS

Rhonda Schmittlein, Chairman
David Johanson, Vice Chairman
Irving Williamson, Commissioner
Meredith Broadbent, Commissioner

**Address all communications to
Secretary to the Commission
United States International Trade Commission
Washington, DC 20436**

U.S. International Trade Commission

Washington, DC 20436
www.usitc.gov

In the Matter of

CERTAIN INTRAVASCULAR ADMINISTRATION SETS AND COMPONENTS THEREOF

Investigation No. 337-TA-1048



UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN INTRAVASCULAR
ADMINISTRATION SETS AND
COMPONENTS THEREOF**

Investigation No. 337-TA-1048

**ISSUANCE OF A LIMITED EXCLUSION ORDER AGAINST THE
RESPONDENT FOUND IN DEFAULT; TERMINATION OF THE
INVESTIGATION**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has issued a limited exclusion order against certain intravascular administration sets and components thereof of Yangzhou WeiDeLi Trade Co., Ltd. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3115. Copies of non-confidential 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 at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://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 under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 ("section 337"), on April 12, 2017, based on a complaint filed by Curlin Medical Inc. of East Aurora, New York; ZEVEX, Inc. of Salt Lake City, Utah; and Moog Inc. of East Aurora, New York (collectively, "Complainants"). 82 *Fed. Reg.* 17690-91 (Apr. 12, 2017). The complaint alleges a violation of section 337 by reason of infringement of certain claims of U.S. Patent Nos. 6,164,921 ("the '921 patent") and 6,371,732 ("the '732 patent"). The complaint named Yangzhou WeiDeLi Trade Co., Ltd. of Yangzhou, China ("Yangzhou" or "Respondent") as the only respondent in this investigation. The Commission's Office of Unfair Import Investigations was named as a party.

On May 23, 2017, the ALJ ordered Yangzhou to show cause why it should not be found in default. *See* Order No. 5. No response to Order No. 5 was filed. On June 13, 2017, the ALJ issued an initial determination finding Yangzhou in default under Commission Rule 210.16(a)(1) (19 C.F.R. § 210.16(a)(1)). *See* Order No. 6.

The Commission requested briefing from the parties and the public on the issues of remedy, the public interest, and bonding. The Commission received timely responsive and reply submissions from Complainants and the Commission Investigative Attorney. The submissions agreed that the appropriate remedy is the entry of a limited exclusion order (“LEO”) against Yangzhou, that the public interest factors do not weigh against granting such a remedy, and that bonding should be set at 100 percent of the entered value of the infringing products.

The Commission has determined that the appropriate form of relief in this investigation is a LEO prohibiting the unlicensed entry of intravascular administration sets and components thereof that are covered by one or more of claims 1-3 of the '732 patent and claims 1-34 of the '921 patent and that are manufactured abroad by or on behalf of, or imported by or on behalf of, Respondent Yangzhou. The Commission has further determined that the public interest factors enumerated in section 337(g)(1) (19 U.S.C. § 1337(g)(1)) do not preclude the issuance of the LEO. Finally, the Commission has determined that the bond for importation during the period of Presidential review shall be in the amount of 100 percent of the entered value of the imported subject articles of Respondent Yangzhou. The Commission’s order was delivered to the President and the United States Trade Representative on the day of its issuance.

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 Part 210 of the Commission’s Rules of Practice and Procedure, 19 CFR Part 210.

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: August 4, 2017

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **NOTICE** has been served by hand upon the Commission Investigative Attorney, **Paul Gennari, Esq.**, and the following parties as indicated, on 8/4/2017



Lisa R. Barton, Secretary
U.S. International Trade Commission
500 E Street, SW, Room 112
Washington, DC 20436

**On Behalf of Complainants Curlin Medical Inc., ZEVEX,
Inc., and Moog Inc.:**

Sarah N. Miller, Esq.
HODGSON RUSS LLP
140 Pearl Street, Suite 100
Buffalo, NY 14202

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: _____

Respondents:

Yangzhou WeiDeLi Trade Co., Ltd.
No. 287, Yangzijiang M. Rd.
Yangzhou, China P. C. 225009

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: _____

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

In the Matter of

**CERTAIN INTRAVASCULAR
ADMINISTRATION SETS AND
COMPONENTS THEREOF**

Investigation No. 337-TA-1048

LIMITED EXCLUSION ORDER

The Commission has found Yangzhou WeiDeLi Trade Co., Ltd. of Yangzhou, China (“Respondent”) in default for failing to respond to a Notice of Investigation and a Complaint that alleged a violation of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), with respect to the unlawful importation into the United States, sale for import into the United States, and/or sale within the United States after importation of certain intravascular administration sets and components thereof by reason of infringement of claims 1-3 of U.S. Patent No. 6,371,732 (“the ’732 patent”) and claims 1-34 of U.S. Patent No. 6,164,921 (“the ’921 patent”).

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, the public interest, and bonding. The Commission has determined that the appropriate form of relief is a limited exclusion order prohibiting the unlicensed entry of covered intravascular administration sets and components thereof manufactured abroad by or on behalf of, or imported by or on behalf of, Respondent or any of its affiliated companies, parents, subsidiaries, licensees, or other related business entities, or their successors or assigns.

The Commission has determined that the public interest factors enumerated in 19 U.S.C. § 1337(g)(1) do not preclude issuance of the limited exclusion order and that there shall be a

bond of 100% of the entered value for all covered intravascular administration sets and components thereof during the period of Presidential review.

Accordingly, the Commission hereby **ORDERS** that:

1. Intravascular administration sets and components thereof that are covered by one or more of claims 1-3 of the '732 patent and claims 1-34 of the '921 patent and that are manufactured abroad by or on behalf of, or imported by or on behalf of, Respondent or any of its affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns, 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, for the remaining term of the patents, except under license of the patent owner or as provided by law.

2. Notwithstanding paragraph 1 of this Order, the aforesaid intravascular administration sets and components thereof 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 100% of the entered value of such articles pursuant to subsection (j) of Section 337 (19 U.S.C. § 1337(j)) and the Presidential Memorandum for the United States Trade Representative of July 21, 2005 (70 Fed. Reg. 43,251), from the day after this Order is received by the United States Trade Representative 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.

3. At the discretion of U.S. Customs and Border Protection ("CBP") and pursuant to procedures that it establishes, persons seeking to import intravascular administration sets and components thereof 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 the certification.

4. In accordance with 19 U.S.C. § 1337(l), the provisions of this Order shall not apply to intravascular administration sets and components thereof imported by and for the use of the United States, or imported for, and to be used for, the United States with the authorization or consent of the Government.

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

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

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

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: August 4, 2017

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **LIMITED EXCLUSION ORDER** has been served by hand upon the Commission Investigative Attorney, **Paul Gennari, Esq.**, and the following parties as indicated, on 8/4/2017



Lisa R. Barton, Secretary
U.S. International Trade Commission
500 E Street, SW, Room 112
Washington, DC 20436

**On Behalf of Complainants Curlin Medical Inc., ZEVEX,
Inc., and Moog Inc.:**

Sarah N. Miller, Esq.
HODGSON RUSS LLP
140 Pearl Street, Suite 100
Buffalo, NY 14202

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: _____

Respondents:

Yangzhou WeiDeLi Trade Co., Ltd.
No. 287, Yangzijiang M. Rd.
Yangzhou, China P. C. 225009

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: _____

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN INTRAVASCULAR
ADMINISTRATION SETS AND
COMPONENTS THEREOF**

Investigation No. 337-TA-1048

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION FINDING RESPONDENT YANGZHOU WEIDELI
TRADE CO., LTD. IN DEFAULT; REQUEST FOR SUBMISSIONS**

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 an initial determination (“ID”) (Order No. 6) of the presiding administrative law judge (“ALJ”) finding respondent Yangzhou WeiDeLi Trade Co., Ltd. in default. The Commission is requesting submissions on remedy, bonding and the public interest.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3115. Copies of non-confidential 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 at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://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 under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“section 337”), on April 12, 2017, based on a complaint filed by Curlin Medical Inc. of East Aurora, New York; ZEVEX, Inc. of Salt Lake City, Utah; and Moog Inc. of East Aurora, New York (collectively, “Complainants”). 82 *Fed. Reg.* 17690-91 (Apr. 12, 2017). The complaint alleges a violation of section 337 by reason of infringement of certain claims of U.S. Patent Nos. 6,164,921 (“the ‘921 patent”) and 6,371,732 (“the ‘732 patent”). The complaint named Yangzhou WeiDeLi Trade Co., Ltd. of Yangzhou, China (“Yangzhou” or “Respondent”) as the only respondent in this investigation. The Commission’s Office of Unfair Import Investigations was named as a party.

On April 7, 2017, the Commission served a copy of the Complaint and Notice of Investigation on Yangzhou by express delivery. EDIS Document Number 606380. Docket Services confirmed that the documents were accepted by Yangzhou on April 10, 2017. Yangzhou did not timely respond to the Complaint and Notice of Investigation. On May 10, 2017, Complainants filed a Motion for an Order to Show Cause and Entry of Default Judgement as to Respondent and for a Stay of the Procedural Schedule. (Mot.) On May 23, 2017, the ALJ issued Order No. 5, granting Complainants' motion and ordering respondent Yangzhou to show cause why it should not be held in default for failing to respond to the complaint and notice of investigation. The order set a deadline of June 9, 2017, and no response was received from Yangzhou.

On June 13, 2017, the ALJ issued the subject ID (Order No. 6). The ALJ found that Yangzhou failed to respond to Order No. 5 and, accordingly, he determined that Yangzhou be found in default. Order No. 6 at 2. The ALJ further stated that Yangzhou therefore waived its right to appear, be served with documents, and to contest the allegations at issue in this investigation. *Id.* No party petitioned for review of the subject ID, and the Commission has determined not to review the ID. Complainants have indicated that they are not seeking a general exclusion order. *See* Complaint and Mot.

In connection with the final disposition of this investigation, the Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue a cease and desist order that could result in the respondent being required to cease and desist from engaging in unfair acts in the importation and sale of such articles.

Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or are likely to do so. For background, see *Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843, Comm'n Op. at 7-10 (Dec. 1994).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. *See* Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury.

WRITTEN SUBMISSIONS: Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest and bonding. Complainants and the Commission investigative attorney ("IA") are also requested to submit proposed remedial orders for the Commission's consideration.

Complainants are further requested to provide the expiration date of the '921 and '732 patents, the HTSUS numbers under which the accused articles are imported, and the identities of any known importers of the accused products. The written submissions and proposed remedial orders must be filed no later than the close of business on July 14, 2017. Reply submissions must be filed no later than the close of business on July 21, 2017. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number ("Inv. No. 337-TA-1048") in a prominent place on the cover page and/or the first page. (*See Handbook for Electronic Filing Procedures*, http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronicfiling.pdf). Persons with questions regarding filing should contact the Secretary (202-205-2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes.

All contract personnel will sign appropriate nondisclosure agreements. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

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 Part 210 of the Commission's Rules of Practice and Procedure, 19 CFR Part 210.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', with a stylized flourish at the end.

Lisa R. Barton
Secretary to the Commission

Issued: June 30, 2017

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **NOTICE** has been served by hand upon the Commission Investigative Attorney, **Paul Gennari, Esq.**, and the following parties as indicated, on 6/30/2017



Lisa R. Barton, Secretary
U.S. International Trade Commission
500 E Street, SW, Room 112
Washington, DC 20436

**On Behalf of Complainants Curlin Medical Inc., ZEVEX,
Inc., and Moog Inc.:**

Sarah N. Miller, Esq.
HODGSON RUSS LLP
140 Pearl Street, Suite 100
Buffalo, NY 14202

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: _____

Respondents:

Yangzhou WeiDeLi Trade Co., Ltd.
No. 287, Yangzjiang M. Rd.
Yangzhou, China P. C. 225009

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: _____

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

**CERTAIN INTRAVASCULAR
ADMINISTRATION SETS AND COMPONENTS
THEREOF**

Inv. No. 337-TA-1048

**ORDER NO. 6: INITIAL DETERMINATION FINDING RESPONDENT
YANGZHOU WEIDELI TRADE CO., LTD. IN DEFAULT**

(June 13, 2017)

On May 10, 2017, Complainants Curlin Medical Inc., Zevex, Inc., and Moog Inc. (collectively, "Complainants") moved (1048-002) for an order directing Respondent Yangzhou WeiDeLi Trade Co., Ltd.¹ ("Respondent") to show cause why it should not be found in default for failure to respond to the Complaint and Notice of Investigation, or otherwise participate in this Investigation. On May 22, 2017, the Commission Investigative Staff filed its response supporting the motion. No other responses were received.

Pursuant to Rule 210.16 of the Commission's Rules of Practice and Procedure, the undersigned issued Order No. 5, whereby Respondent was ordered to show why it should not be found in default for failure to respond to the Complaint and Notice of Investigation by the close of business on June 9, 2017. *See* 19 C.F.R. § 210.16; *see also* Order No. 5 (May 23, 2017.) Respondent did not file a response.

Commission Rule 210.16 provides in pertinent part, as follows:

A party shall be found in default if it fails to respond to the complaint and notice of investigation in the manner prescribed in § 210.13 or § 210.59(c), or otherwise fails to answer the complaint and notice, and fails to show cause why it should not be found in default.

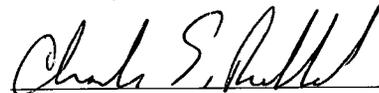
¹ Yangzhou WeiDeLi Trade Co., Ltd. is the only named respondent in this Investigation. 82 Fed. Reg. 17,690-691 (Apr. 12, 2017).

19 C.F.R. § 210.16(a)(1). The Commission's Rules further provide that "[a] party found in default shall be deemed to have waived its right to appear, to be served with documents, and to contest the allegations at issue in the investigation. 19 C.F.R. § 210.16(b)(4).

Accordingly, it is the initial determination of the undersigned that Respondent Yangzhou WeiDeLi Trade Co., Ltd. be found in default. Respondent has therefore waived its right to appear, be served with documents, and to contest the allegations at issue in this Investigation.

Pursuant to 19 C.F.R. § 210.42(h), this Initial Determination shall become the determination of the Commission unless a party files a petition for review of the Initial Determination pursuant to 19 C.F.R. § 210.43(a), or the Commission, pursuant to 19 C.F.R. § 210.44, orders on its own motion a review of the Initial Determination or certain issues contained herein.

SO ORDERED.



Charles E. Bullock
Chief Administrative Law Judge

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER NO. 6** has been served by hand upon the Commission Investigative Attorney, Paul A. Gennari and the following parties as indicated, on 6/14/2017.



Lisa R. Barton, Secretary
U.S. International Trade Commission
500 E Street, SW, Room 112
Washington, DC 20436

On Behalf of Complainants Curlin Medical Inc.; ZEVEX Inc.;
& Moog Inc.:

Sara N. Miller, Esq.
HODGSON RUSS LLP
140 Pearl Street, Suite 100
Buffalo, NY 14202

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: _____

Respondents:

Yangzhou WeiDeLi Trade Co., Ltd.
No. 287, Yangzijiang M. Rd.
Yangzhou, China P.C. 22509

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: _____