

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN ROAD MILLING MACHINES
AND COMPONENTS THEREOF**

Investigation No. 337-TA-1067

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION GRANTING AN UNOPPOSED MOTION TO TERMINATE THE
INVESTIGATION IN PART**

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. 20) of the presiding administrative law judge (“ALJ”) granting an unopposed motion to terminate the investigation in part.

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 August 25, 2017, based on a complaint filed by Wirtgen America, Inc. of Antioch, Tennessee (“Wirtgen”). 82 F.R. 40596-97 (Aug. 25, 2017). The complaint alleges a violation of section 337 by reason of infringement of certain claims of U.S. Patent Nos. 9,644,340 (“the ‘340 patent”); 9,624,628 (“the ‘628 patent”); 9,656,530 (“the ‘530 patent”); 7,530,641 (“the ‘641 patent”); and 7,828,309 (“the ‘309 patent”). The complaint named as respondents Caterpillar Bitelli SpA of Minerbio, Italy (“Caterpillar Bitelli”); Caterpillar Prodotti Stradali S.r.L. of Minerbio, Italy; Caterpillar Americas CV of Geneva, Switzerland; Caterpillar Paving Products, Inc. of Minneapolis, MN; and Caterpillar Inc. of Peoria, IL as respondents. *Id.* at 40596. The

Office of Unfair Import Investigations is named as a party in this investigation. *Id.* Subsequently, the investigation was terminated as to respondent Caterpillar Bitelli.

On January 29, 2018, complainant Wirtgen filed an unopposed motion seeking to terminate the investigation in part; a supplement to the motion was filed on February 1. In particular, Wirtgen seeks to withdraw: (1) Claims 2, 3, 8, 10 and 14-16 of the '340 patent; (2) Claims 2, 9, 10, 12, 13, 17, 20-22, and 27-29 of the '628 patent; (3) Claims 4, 6, 7, 13, 14, 19-21, and 26 of the '530 patent; (4) Claims 2, 3, 5, 7-9, 12, 15, 16, 18-24, 27-28, and 30-35 of the '309 patent; and (5) Claims 2, 4, 6, and 15 of the '641 patent. Mot. at 3. The respondents do not oppose the motion.

On February 5, 2018, the ALJ issued the subject ID (Order No. 20). The ALJ found that Wirtgen's motion reduces the number of issues to be decided in this investigation by removing numerous patent claims. Order No. 20 at 2. The ALJ noted that, per Rule 210.21(a)(1), Wirtgen states that "there are no agreements, written or oral, express or implied between the parties concerning the subject matter of the investigation." *Id.* (citing Supplement at 1). Based on the foregoing, the ALJ granted the motion to terminate. No party petitioned for review of the subject ID, and the Commission has determined not to review it.

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: March 7, 2018