

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN FUEL PUMP ASSEMBLIES
HAVING VAPOR SEPARATORS AND
COMPONENTS THEREOF**

Investigation No. 337-TA-1101

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW
AN INITIAL DETERMINATION FINDING SOLE RESPONDENT IN DEFAULT;
REQUEST FOR WRITTEN SUBMISSIONS ON REMEDY, BONDING, AND THE
PUBLIC INTEREST**

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 (Order No. 6) finding the sole respondent, Wenzhou Jushang (JS) Performance Parts Co. Ltd. of Wenzhou, China, in default. The Commission requests written submissions, under the schedule set forth below, 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 March 2, 2018, based on a complaint filed by Carter Fuel Systems, LLC of Logansport, IN ("Complainant"). 83 *Fed. Reg.* 9027 (Mar. 2, 2018). The complaint alleges a violation of section 337 by reason of infringement of certain claims of U.S. Patent No. 6,257,208. The notice of investigation named Wenzhou Jushang (JS) Performance Parts Co. Ltd. ("JSP") of Wenzhou,

China, as the sole respondent. *Id.* The Office of Unfair Import Investigations is not a party in this investigation.

The complaint and notice of investigation were served on JSP on May 4, 2018.

On June 6, 2018, Complainant filed a motion for an order to show cause directing respondent JSP to demonstrate why it should not be found in default for failing to respond to the complaint and notice of investigation, or otherwise participate in the investigation. Complainant did not state in its motion that it intended to seek a general exclusion order. JSP did not file a response.

On June 22, 2018, the presiding administrative law judge (“ALJ”) issued Order No. 6, ordering JSP to show why it should not be found in default. No response was filed.

On July 23, 2018, the ALJ issued the subject ID (Order No. 7), finding JSP in default under Commission Rule 210.16 (19 CFR 210.16). No party petitioned for review of the ID, and the Commission has determined not to review it.

Section 337(g)(1) (35 USC 1337(g)(1)) and Commission Rule 210.16(c) (19 CFR 210.16(c)) authorize the Commission to order relief against a respondent found in default, unless, after considering the public interest, it finds that such relief should not issue.

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 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 likely to do so. For background, *see Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843 (Dec. 1994), Comm'n Op. at 7-10.

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 order 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. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

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. Complainant is also requested to submit proposed remedial orders for the Commission's consideration. Complainant is further requested to state the date that the asserted patent expires and the HTSUS numbers under which the accused products are imported, and provide identification information for all known importers of the subject articles. The written submissions and proposed remedial orders must be filed no later than close of business on September 4, 2018. Reply submissions must be filed no later than the close of business on September 11, 2018. 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-1101") 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_electronic_filing.pdf. Persons with questions regarding filing should contact the Secretary at (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 USC Appendix 3; or (ii) by U.S. government employees and contract personnel,¹ solely for cybersecurity purposes. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

¹All contract personnel will sign appropriate nondisclosure agreements.

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". The signature is stylized and cursive.

Lisa R. Barton
Secretary to the Commission

Issued: August 20, 2018