

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC

In the Matter of

CERTAIN JUMP ROPE SYSTEMS

Investigation No. 337-TA-1108

**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, Suzhou Everise Fitness Co., Ltd. of Jiangsu, 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: Lucy Grace D. Noyola, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436, telephone 202-205-3438. 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, SW, Washington, DC 20436, telephone 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<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 on April 18, 2018, based on a complaint filed by Jump Rope Systems, LLC of Louisville, Colorado ("Complainant"). 83 FR 17190 (Apr. 18, 2018). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain jump rope systems by reason of infringement of certain claims of U.S. Patent Nos. 7,789,809 and 8,136,208. The notice of investigation named one respondent: Suzhou Everise Fitness Co., Ltd. of Jiangsu, China ("Respondent"). The Office of Unfair Import Investigations ("OUII") also was named as a party to the investigation.

The complaint and notice of investigation were served on Respondent on April 13, 2018. However, Respondent did not respond to the complaint or notice of investigation.

On May 31, 2018, Complainant filed an amended motion for an order to show cause directing Respondent 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. On June 6, 2018, OUII filed a response, supporting the motion. No other responses were filed.

On June 12, 2018, the presiding administrative law judge (“ALJ”) issued Order No. 5, ordering Respondent to show why it should not be found in default. No response was filed.

On July 10, 2018, the ALJ issued the subject ID (Order No. 6), finding Respondent in default under Commission Rule 210.16 (19 CFR 210.16) and terminating the proceedings before the ALJ in their entirety. No petitions for review were filed.

The Commission has determined not to review the subject ID.

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, including OUII, 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 and OUII are also requested to submit proposed remedial orders for the Commission’s consideration. Complainant is further requested to state the date that the asserted patents expire 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 **August 20, 2018**. Reply submissions must be filed no later than the close of business on **August 27, 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-1108”) 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](#).

The authority for the Commission’s determination is contained in section 337 of the Tariff Act of 1930, as amended (19 USC 1337), and in part 210 of the Commission’s Rules of Practice and Procedure (19 CFR. part 210).

^[1] All contract personnel will sign appropriate nondisclosure agreements.

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 6, 2018