

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

In the Matter of

**CERTAIN CARBURETORS AND
PRODUCTS CONTAINING SUCH
CARBURETORS**

Investigation No. 337-TA-1123

**NOTICE OF COMMISSION DETERMINATION TO DENY A PETITION TO RESCIND
A CONSENT ORDER**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to deny the petition of Fujian Hualong Carburetor Co., Ltd. (“Fujian”) to rescind the consent order issued against Fujian in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Lynde Herzbach, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-3228. 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 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 the underlying investigation on July 20, 2018, based on a complaint filed by Walbro, LLC (“Walbro”) of Tucson, Arizona. 83 *Fed. Reg.* 34614-615 (July 20, 2018). The complaint, as supplemented, alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (“section 337”) based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain carburetors and products containing such carburetors by reason of infringement of certain Walbro patents. *Id.* The complaint also

alleged that an industry in the United States exists as required by 19 U.S.C. 1337(a)(2). 83 *Fed. Reg.* 34614-615. The notice of investigation names thirty-five (35) respondents, including Fujian. *Id.* The Office of Unfair Import Investigations (“OUII”) was also a party to the underlying investigation. *Id.*

On August 23, 2018, Fujian moved to terminate based on a consent order. *See* Respondent Fujian Hualong Carburetor Co., Ltd.’s Motion to Terminate Based on Consent Order and Immediate Stay of All Due Dates (Aug. 23, 2018). On September 4, 2018, Walbro opposed Fujian’s motion. *See* Complainant Walbro LLC’s Opposition to Fujian Hualong Carburetor Co. Ltd.’s Motion to Terminate Investigation and Immediate Stay of All Due Dates (Sept. 4, 2018). That same day, OUII filed a response supporting Fujian’s motion. *See* Commission Investigative Staff’s Response to Respondent Fujian Hualong Carburetor Co., Ltd.’s Motion to Terminate Based on Consent Order and Immediate Stay of All Due Dates (Sept. 4, 2018).

On September 12, 2018, the administrative law judge (“ALJ”) issued an initial determination granting Fujian’s motion. *See* Order No. 18 (Sept. 12, 2018), *not reviewed*, Notice (Oct. 2, 2018). The Consent Order issued on October 2, 2018, and Fujian was terminated from the investigation. *See* Consent Order (Oct. 2, 2018).

On August 12, 2019, the ALJ issued an initial determination finding that Walbro failed to satisfy the economic prong of the domestic industry requirement. *See* Order No. 77 (Aug. 12, 2019), *reviewed in part*, Notice (Oct. 11, 2019). The Commission affirmed the finding that Walbro failed to satisfy the domestic industry requirement and terminated the investigation on October 11, 2019. *Id.* Walbro did not appeal.

On January 27, 2020, Fujian filed a petition seeking rescission of the October 2, 2018 Consent Order. *See* Petition of Fujian Hualong Carburetor Co., Ltd. for Rescission of Consent Order (Jan. 27, 2020). On February 6, 2020, Walbro filed an opposition to Fujian’s petition. *See* Walbro LLC’s Opposition to Fujian Hualong Carburetor Co., Ltd.’s Petition for Rescission of Consent Order (Feb. 6, 2020). That same day, OUII also filed a response in opposition to Fujian’s petition. *See* The Office Of Unfair Import Investigations’ Opposition to the Petition of Fujian Hualong Carburetor Co., Ltd. Rescission of Consent Order (Feb. 6, 2020).

The Commission has determined to deny Fujian’s petition. Fujian has failed to show there is any basis for granting its petition under section 337(k)(1) or 19 CFR 210.76. In particular, Fujian has failed to show that a later determination that the complainant fails to satisfy the domestic industry requirement concerns a change in the conditions of law or fact which led to the Consent Order. Nor does Fujian cite any language in the Consent Order that it may be rescinded based on a later finding in the investigation of no domestic industry. Further, Fujian has failed to show that the public interest requires that the Consent Order be rescinded under 19 CFR 210.76. Section 337(k)(2) also does not apply because there was no violation found against Fujian.

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'.

Lisa R. Barton
Secretary to the Commission

Issued: February 26, 2020