

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

**In the Matter of**

**CERTAIN PICK-UP TRUCK FOLDING  
BED COVER SYSTEMS AND  
COMPONENTS THEREOF (III)**

**Inv. No. 337-TA-1353**

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL  
DETERMINATION GRANTING SUMMARY DETERMINATION OF VIOLATION OF  
SECTION 337; REQUEST FOR WRITTEN SUBMISSIONS ON REMEDY, THE  
PUBLIC INTEREST, AND BONDING**

**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. 33) issued by the presiding administrative law judge (“ALJ”) granting a motion for summary determination of violation of section 337. The Commission requests written submissions from the parties, interested government agencies, and interested persons on the issues of remedy, the public interest, and bonding, under the schedule set forth below.

**FOR FURTHER INFORMATION CONTACT:** Robert J. Needham, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-5468. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. For help accessing EDIS, please email [EDIS3Help@usitc.gov](mailto:EDIS3Help@usitc.gov). General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.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 February 27, 2023, based on a complaint, as supplemented and amended, filed by Extang Corporation of Ann Arbor, Michigan (“Extang”); Laurmark Enterprises, Inc. d/b/a BAK Industries (“BAK”) of Ann Arbor, Michigan; and UnderCover, Inc. of Rogersville, Missouri (together, “Complainants”). 88 FR 12422-23 (Feb. 27, 2023). The complaint alleged violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain pick-up truck folding bed cover systems and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 7,188,888; 7,484,788 (“the ’788 patent”); 8,061,758 (“the ’758 patent”); 7,537,264; 8,182,021; 8,690,224;

and 9,815,358. *Id.* at 12422. The Commission’s notice of investigation named 21 respondents: 4 Wheel Parts of Compton, California; American Trucks of Lenexa, Kansas; Auto Dynasty a/k/a Shun Fung Int’l Inc. of City of Industry, California; AUTOSTARLAND Technology (US), Inc. of Riverside, California; DNA Motoring of City of Industry, California; Fanciest Pickup Accessories of Riverside, California; Future Trucks a/k/a Future Trading Company, LLC of Houston, Texas; Ikon Motorsports, Inc. of City of Industry, California; Jiaxing Kscar Auto Accessories Co., Ltd. a/k/a KSC Auto of Pinghu City, China; Kiko Kikito of Ruian City, China; Lyon Cover Auto a/k/a Truck Tonneau Covers of Wenzhou City, China; Mamoru Cover, a/k/a Ningbo Surpass Auto Parts Co., Ltd. of Ningbo City, China; MOSTPLUS Auto of Hong Kong, China; Newpowa America, Inc. of Ontario, California; New Home Materials, Inc. of Riverside, California; OEDRO of Kent, Washington; Pickup Zone, a/k/a Dai Qun Feng of Riverside, California; RDJ Trucks, LLC of Talmo, Georgia (“RDJ”); Smittybilt, Inc. of Compton, California; Trek Power, Inc. of Placentia, California (“Trek”); and Wenzhou Tianmao Automobile Parts Co., Ltd. of Wenzhou City, China. *Id.* The Office of Unfair Import Investigations (“OUII”) is participating in this investigation. *Id.*

The Commission subsequently granted leave to amend the complaint and notice of investigation to change the names of several respondents. Order No. 9 (May 4, 2023), *unreviewed by* Notice (May 30, 2023). Specifically, the Commission granted leave to change the names of: (1) respondents 4 Wheel Parts and Smittybilt, Inc. to TAP Worldwide, LLC d/b/a 4 Wheel Parts; (2) respondent MOSTPLUS Auto to Ultimate Motor Parts Limited; (3) respondent OEDRO to Hong Kong Yintatech Network Co., Ltd. a/k/a OEDRO; (4) respondent Ikon Motorsports, Inc. to Advance Tuning, LLC d/b/a Ikon Motorsports, Inc.; (5) respondents AUTOSTARLAND Technology (US), Inc. and Pickup Zone a/k/a Dai Qun Feng to Autostarland Technology (US), Inc. dba Pickup Zone; (6) respondent Mamoru Cover a/k/a Ningbo Surpass Auto Parts Co., Ltd. to Ningbo Surpass Auto Parts Co., Ltd.; (7) respondent American Trucks to American Trucks Inc. and Turn 5 d/b/a American Trucks; (8) respondent Kiko Kikito to Wenzhou Tianmao Automobile Parts Co., Ltd. DBA Kikito and Rui’an Yiming Trading Co. Ltd.; and (9) respondent Lyon Cover Auto a/k/a Truck Tonneau Covers to Wenzhou Tianmao Automobile Parts Co., Ltd. DBA Lyon Cover and Wenzhou Chaoming Auto Parts Co., Ltd.

The Commission also terminated two respondents based on settlement, one respondent based on the entry of a consent order, and 14 respondents based on both settlement and the entry of a consent order. Order No. 15 (Jun. 13, 2023), *unreviewed by* Notice (Jul. 11, 2023) (terminating TAP Worldwide, LLC d/b/a 4 Wheel Parts based on a settlement agreement); Order No. 17 (Jul. 11, 2023), *unreviewed by* Notice (Aug. 9, 2023) (terminating Advance Tuning, LLC d/b/a Ikon Motorsport, Inc. based on the entry of a consent order); Order No. 18 (Jul. 18, 2023), *unreviewed by* Notice (Aug. 16, 2023) (terminating American Trucks, Inc. and Turn 5 d/b/a American Trucks based on a settlement agreement); Order Nos. 22, 23, and 24 (Jul. 31, 2023), *unreviewed by* Notice (Aug. 28, 2023) (terminating Ningbo Surpass Auto Parts Co., Ltd., Newpowa America, Inc., and New Home Materials, Inc. based on a settlement agreement and entry of a consent order); Order Nos. 25 and 26 (Aug. 1, 2023), *unreviewed by* Notice (Aug. 30, 2023) (terminating Autostarland Technology (US), Inc. d/b/a Pickup Zone and Fanciest Pickup Accessories based on a settlement agreement and entry of a consent order); Order No. 27 (Aug. 21, 2023), *unreviewed by* Notice (Sept. 19, 2023) (terminating Auto Dynasty a/k/a Shun Fung International Inc. based on a settlement agreement and entry of a consent order); Order No. 28

(Aug. 24, 2023), *unreviewed by* Corrected Notice (Sept. 20, 2023) (terminating DNA Motoring based on a settlement agreement and entry of a consent order); Order Nos. 29 and 30 (Aug. 25, 2023), *unreviewed by* Notice (Sept. 21, 2023) (terminating Wenzhou Tianmao Automobile Parts Co., Ltd., Wenzhou Tianmao Automobile Parts Co., Ltd. DBA Kikito, Rui'an Yiming Trading Co. Ltd., Wenzhou Tianmao Automobile Parts Co., Ltd. DBA Lyon Cover, Wenzhou Chaoming Auto Parts Co., Ltd., Jiaxing Kscar Auto Accessories Co. Ltd. a/k/a KSC Auto, Future Trucks a/k/a Future Trading Co., LLC, Ultimate Motor Parts Limited, and Hong Kong Yintatech Network Co., Ltd. based on a settlement agreement and entry of a consent order).

On August 22, 2023, the Commission found RDJ and Trek in default. Order No. 19 (Jul. 21, 2023), *unreviewed by* Notice (Aug. 22, 2023). On October 6, 2023, Extang and BAK (“Movants”) filed a motion for a summary determination of violation with respect to claims 2-4 of the ’758 patent and claims 1-3 of the ’788 patent, and requested the entry of a general exclusion order (“GEO”), the entry of cease and desist orders (“CDOs”) against RDJ and Trek, and the imposition of a bond rate of 100 percent during the period of Presidential review. On October 27, 2023, OUII filed a response in support of the motion and the requested remedial relief.

On April 23, 2024, the ALJ issued the subject ID granting the Movants’ motion and included a recommended determination on remedy and bond (“RD”) recommending issuance of a GEO, the issuance of CDOs against RDJ and Trek, and the imposition of a bond in the amount of 100 percent of the entered value of infringing products during the period of Presidential review. Specifically, the ID finds that: 1) the Commission has statutory authority in the present investigation, *in rem* jurisdiction over the accused products, and that *in personam* jurisdiction is not required and is in any event waived by defaulting; 2) that the importation requirement is satisfied; 3) that all of the remaining asserted claims are infringed by RDJ’s and Trek’s products; and 4) that Movants have satisfied the domestic industry requirement with respect to the ’758 and ’788 patents. In support of its recommendation for issuance of a GEO, the RD finds: 1) that a GEO is necessary in this investigation to prevent circumvention of a limited exclusion order and 2) that the record shows a pattern of violation of section 337 through importation of articles that infringe the ’758 and ’788 patents, and that the source of those infringing articles is difficult to identify. No party petitioned for review of the ID.

The Commission has determined not to review the ID.

In connection with the final disposition of this investigation, the statute authorizes issuance of, *inter alia*, (1) an exclusion order that could result in the exclusion of the subject articles from entry into the United States and/or (2) cease and desist orders that could result in the respondents 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, Comm’n Op. at 7-10 (Dec. 1994).

The statute requires the Commission to consider the effects of that remedy upon the public interest. The public interest factors the Commission will consider include the effect that an exclusion 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, disapprove, or take no action on the Commission's determination. *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. Such submissions should address the recommended determination by the ALJ on remedy and bonding.

In their initial submission, Complainants are also requested to identify the remedy sought and Complainants and OUII are requested to submit proposed remedial orders for the Commission's consideration. Complainant is further requested to state the dates that the Asserted Patents expire, the HTSUS subheadings under which the accused products are imported, and to supply the identification information for all known importers of the products at issue in this investigation. The initial written submissions and proposed remedial orders must be filed no later than close of business on June 21, 2024. Reply submissions must be filed no later than the close of business on June 28, 2024. 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. The Commission's paper filing requirements in 19 CFR 210.4(f) are currently waived. 85 FR 15798 (March 19, 2020). Submissions should refer to the investigation number (Inv. No. 337-TA-1353) in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, [https://www.usitc.gov/documents/handbook\\_on\\_filing\\_procedures.pdf](https://www.usitc.gov/documents/handbook_on_filing_procedures.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 by marking each document with a header indicating that the document contains confidential information. This marking will be deemed to satisfy the request procedure set forth in Rules 201.6(b) and 210.5(e)(2) (19 CFR 201.6(b) & 210.5(e)(2)). Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing.

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 nonconfidential written submissions will be available for public inspection on EDIS.

The Commission vote for this determination took place on June 7, 2024.

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', enclosed within a large, loopy oval shape.

Lisa R. Barton  
Secretary to the Commission

Issued: June 7, 2024