



finding respondents in default if they failed to show cause. On August 30, 2004, the ALJ issued Order No. 5, directing respondents to show cause no later than September 17, 2004, why they should not be held in default. Neither respondent responded to the order.

On September 9, 2004, before the ALJ ruled on the motions for default, Newspring filed motions for summary determinations that there has been a violation of section 337 and that a domestic industry has been established with respect to each of the asserted patents. Newspring sought a recommendation for the issuance of a general exclusion order. On September 23, 2004, the Investigative Attorney (“IA”) filed a response in support of the motions, although he contended that a genuine issue of material fact exists as to whether certain accused products infringe two of the patents in issue.

On October 12, 2004, the ALJ issued an Initial Determination (ID) (Order No. 7), finding the respondents in default. No party petitioned for review of the ID. The Commission subsequently issued a notice of determination not to review the ID.

On February 10, 2005, the ALJ issued an ID (Order No. 8), granting Newspring’s motions for summary determinations in part. He determined that a domestic industry had been established with respect to each of the asserted patents, and that respondent Jiangsu had violated section 337 with respect to each asserted patent as well. He determined that respondent Taizhou had violated section 337 with respect to the ‘420 patent, but denied the motion as to Taizhou with respect to the ‘138 and ‘404 patents. No party petitioned for review of the ID. The ALJ also recommended the issuance of a general exclusion order. He also recommended that the bond permitting temporary importation during the Presidential review period be set at 100 percent of the value of the infringing imported product.

The Commission has determined to review the subject ID (Order No. 8). The scope of the review is limited to possible formatting and typographic errors on page 15 of the ID. The Commission notes that the Complainant, on September 28, 2004, filed a corrected version of what is apparently the figure that appears on page 15 of the ID. The Commission requests comments from the parties regarding whether the widths labeled “A” and “B” in the figure in the ID correspond to the widths described in the text of the ID, and whether the indicated widths are incorrectly placed in the figure. Comments should also address what action, if any, the Commission should take if it finds the labeling incorrect and whether all references to “Figure 1” on page 15 of the ID should be changed to “Figure 5.”

In connection with the final disposition of this investigation, the Commission may issue an order that could result in the exclusion of the subject articles from entry into the United States. 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, it 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 *In the Matter of Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843 (December 1994) (Commission Opinion).

When 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 in this investigation 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 President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a 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.

**WRITTEN SUBMISSIONS:** The parties to the investigation are requested to file written submissions on the issues under review. The 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 February 10, 2005, recommended determination by the ALJ on remedy and bonding. Complainant and the Commission's investigative attorney are also requested to submit proposed orders for the Commission's consideration. Complainant is further requested to state the expiration dates of the patents at issue. Main written submissions and proposed orders must be filed no later than close of business on March 28, 2005. Reply submissions, if any, must be filed no later than the close of business on April 5, 2005. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file with the Office of the Secretary the original document and 14 true copies thereof on or before the deadlines stated above. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons that the Commission should grant such treatment. *See* section 201.6 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 201.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337, and sections 210.16, 210.42, 210.44 of the Commission's Rules of Practice and Procedure, 19 C.F.R. §§ 210.16, 210.42, 210.44.

By order of the Commission.

/s/  
Marilyn R. Abbott  
Secretary to the Commission

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