

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

In the Matter of

**CERTAIN VARIABLE SPEED WIND
TURBINES AND COMPONENTS THEREOF**

Investigation No. 337-TA-641

**TERMINATION OF INVESTIGATION
WITH FINAL DETERMINATION OF NO VIOLATION**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to terminate the investigation with a final determination of no violation in the above-captioned investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“section 337”).

FOR FURTHER INFORMATION CONTACT: James A. Worth, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3065. 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 (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://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: This investigation was instituted on March 31, 2008, based upon a complaint filed on behalf of General Electric Company of Fairfield, Connecticut (“GE”) on February 7, 2008. *73 Fed. Reg.* 16910. The complaint alleged violations of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain variable speed wind turbines and components thereof that infringe claims 121-125 of U.S. Patent No. 5,083,039 (“the ‘039 patent”) and claims 1-12, 15-18, and 21-28 of U.S. Patent No. 6,921,985 (“the ‘985 patent”). The complaint named as respondents Mitsubishi Heavy Industries, Ltd. of Tokyo, Japan (“MHI”); Mitsubishi Power Systems, Inc. of Lake Mary, Florida (“MPSA”); and Mitsubishi Heavy Industries America, Inc. of New York, New York (“MHIA”). On October 8, 2008, the Commission issued notice of its determination not to review an initial determination

("ID") (Order No. 10) granting GE's motion to amend its complaint and the notice of investigation to add claims 1-19 of U.S. Patent No. 7,321,221 ("the '221 patent") to this investigation.

On August 7, 2009, the ALJ issued a final ID finding a violation of section 337 in this investigation. The ALJ found that there was a violation in the sale for importation, importation, or sale after importation by respondents MHI and MPSA with respect to claim 121 of the '039 patent and claim 15 of the '985 patent. The ALJ found that there was no violation with respect to these claims by MHIA. The ALJ also found that there was no violation of section 337 by any party with respect to claims 5, 7, and 8 of the '221 patent.

On August 24, 2009, the Commission received petitions and/or contingent petitions for review from: (1) MHI, MPSA, and MHIA; (2) GE; and (3) the Commission investigative attorney. On September 1, 2009, each of the parties filed responses thereto.

On October 8, 2009, the Commission issued notice of its determination to review the final ID, except with respect to the issue of importation and the intent finding underlying the ALJ's inequitable conduct determination. *72 Fed. Reg. 52975* (Oct. 15, 2009). The Commission requested briefing on the issues on review, including certain specific questions, in addition to remedy, the public interest, and bonding.

On October 23, 2009, the Commission issued notice of its determination to extend the deadline for public submissions on remedy, the public interest, and bonding to November 2, 2009, and for all responses to all remedy, the public interest, and bonding submissions to November 9, 2009.

On October 22, 2009, Mitsubishi, GE, the IA, and Iberdrola filed submissions in response to the notice of review. On October 30, 2009, Turner Bros., LLC filed a submission on remedy. On November 2, 2009, Mitsubishi, GE, and the IA filed reply submissions on violation. On November 9, 2009, Mitsubishi, GE, the IA, and Iberdrola filed reply submissions on remedy.

Having reviewed the final ID, the submissions on review, and the record, the Commission has determined to terminate the investigation with a final determination of no violation. A Commission opinion will issue shortly.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and under sections 210.42-.51 of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.42-.51).

By order of the Commission.

/s/
Marilyn R. Abbott
Secretary to the Commission

Issued: January 8, 2010