

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

**In the Matter of**

**CERTAIN ADJUSTABLE KEYBOARD  
SUPPORT SYSTEMS AND  
COMPONENTS THEREOF**

**Investigation No. 337-TA-670**

**NOTICE OF COMMISSION DETERMINATION TO REVIEW AN INITIAL  
DETERMINATION GRANTING A MOTION FOR SUMMARY DETERMINATION OF  
THE ECONOMIC PRONG OF THE DOMESTIC INDUSTRY REQUIREMENT;  
SCHEDULE FOR FILING WRITTEN SUBMISSIONS**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined to review the initial determination (“ID”) granting a motion for summary determination of the economic prong of the domestic industry requirement issued by the presiding administrative law judge (“ALJ”) on November 4, 2009, in the above-captioned investigation.

**FOR FURTHER INFORMATION CONTACT:** Michael K. Haldenstein, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3041. 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 at <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:** The Commission instituted this investigation on March 13, 2009, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, based on a complaint filed on February 10, 2009, by Humanscale Corporation (“Humanscale”) of New York, New York. 74 *Fed. Reg.* 10963 (March 13, 2009). The Commission named the following two companies as respondents: CompX International, Inc., of Dallas, Texas and CompX Waterloo, of Ontario, Canada (collectively, “CompX”). The complaint and notice of investigation were subsequently amended to correct the Canadian respondent’s name to

Waterloo Furniture Components Ltd. 74 *Fed. Reg.* 22963 (May 15, 2009). The complaint alleged violations of 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 adjustable keyboard support systems and components thereof that infringe certain claims of U.S. Patent No. 5,292,097. The complaint further alleged that an industry in the United States exists as required by subsection (a)(2) of section 337. The complainant requested that the Commission issue a limited exclusion order and a cease and desist order.

On November 4, 2009, the ALJ issued an ID (Order 27) finding that the economic prong of the domestic industry requirement contained in 19 U.S.C. § 1337(a)(3) has been satisfied. On November 16, 2009, CompX filed a petition for review of the ID. On November 23, 2009, Humanscale and the Commission investigative attorney filed oppositions to the petition for review arguing, *inter alia*, that CompX's petition for review was untimely, and CompX did not ask the Commission for leave to file its petition out of time.

Having examined the record in this investigation, including the ALJ's ID, the Commission has determined to review the ID on its own motion pursuant to Commission rule 210.44. On review, the Commission requests the parties to brief their positions on the issues under review with reference to the applicable law and the evidentiary record. The Commission is particularly interested in responses to the following questions:

- 1) Are the patented articles themselves articles of commerce (*see Certain Modular Structural Systems*, 337-TA-164, USITC Pub. 1668, (June 1984)) and is there a separate market for the patented articles (*see Certain Double Sided Floppy Disk Drives and Components Thereof*, Inv. No. 337-TA-215, USITC Pub. 1860 (May 1986) (“*Disk Drives*”)? To what extent should these factors affect the domestic industry analysis? Should the Commission take into account the relative sizes of the markets for the patented articles and the domestically-produced articles?
- 2) What other factors related to the “realities of the marketplace” (*see Disk Drives*) should the Commission consider in its domestic industry analysis, both in general and with respect to this particular investigation?
- 3) Should the Commission consider whether the patented article contributes significantly to the final, finished product, and if so, what should guide this analysis, both in general and with respect to this particular investigation?
- 4) Can the Commission find a domestic industry related to a domestically-produced article that is not physically integrated with the patented article?
- 5) Are the domestically-produced products necessary for the imported product to practice the '097 patent (*see Certain NOR and NAND Flash Memory Devices and Products Containing Same*, Inv. No. 337-TA-560 (Order 37) )?

6) Please address the Federal Circuit's decision in *Schaper Manuf. Co. v. U.S. Int'l Trade Comm'n*, 717 F.2d 1368 (Fed. Cir. 1983).

7) Please address further any policy considerations you believe are raised by the domestic industry analysis on the facts of this investigation.

**WRITTEN SUBMISSIONS:** The parties to the investigation are requested to file written submissions on the issues under review. The submissions should be concise and thoroughly referenced to the record in this investigation. The written submissions must be filed no later than the close of business on January 15, 2010. Reply submissions must be filed no later than the close of business on January 22, 2010. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

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 sections 210.42-.46 of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.42-.46).

By order of the Commission.

/s/

Marilyn R. Abbott  
Secretary to the Commission

Issued: December 22, 2009