

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

In the Matter of

**CERTAIN AUTOMOTIVE VEHICLES
AND DESIGNS THEREFOR**

Investigation No. 337-TA-722

**NOTICE OF REQUEST FOR WRITTEN SUBMISSIONS ON REMEDY, THE PUBLIC
INTEREST, AND BONDING WITH RESPECT TO RESPONDENTS
FOUND IN DEFAULT**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission is requesting briefing on remedy, the public interest, and bonding with respect to two respondents previously found in default in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-2310. 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 June 17, 2010, based on a complaint filed by Chrysler Group LLC ("Chrysler") of Auburn Hills, Michigan. 75 *Fed. Reg.* 34483-84 (June 17, 2010). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 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 automotive vehicles and designs therefor by reason of infringement of U.S. Patent No. D513,395. The complaint further alleges the existence of a domestic industry. The Commission's notice of investigation named several respondents including Vehicles Online, Inc. ("Vehicles") of Charlotte, North Carolina; Boat N RV Supercenter ("Boat N RV") of Rockwood, Tennessee; and Shanghai Tandem Industrial Co., Ltd. ("Shanghai Tandem") of China.

On July 7, 2010, Chrysler moved, pursuant to 19 C.F.R. § 210.16, for: (1) an order directing respondents Vehicles and Boat N RV to show cause why they should not be found in default for failure to respond to the complaint and notice of investigation as required by § 210.13; and (2) the issuance of an initial determination (“ID”) finding Vehicles and Boat N RV in default upon their failure to show cause. On July 19, 2010, the ALJ issued Order No. 8 which required Vehicles and Boat N RV to show cause no later than August 2, 2010, as to why they should not be held in default and judgment rendered against them pursuant to § 210.16. Boat N RV responded to Order No. 8, but no response was received from Vehicles.

The presiding administrative law judge (“ALJ”) issued an ID on August 11, 2010, finding Vehicles in default, pursuant to §§ 210.13, 210.16, because Vehicles did not respond to the complaint and notice of investigation, or to Order No. 8 to show cause. On September 9, 2010, the Commission issued notice of its determination not to review the ALJ’s ID finding Vehicles in default.

On August 19, 2010, Chrysler moved, pursuant to 19 C.F.R. § 210.16, for: (1) an order directing respondent Shanghai Tandem to show cause why it should not be found in default for failure to respond to the complaint and notice of investigation as required by § 210.13; and (2) the issuance of an ID finding Shanghai Tandem in default upon its failure to show cause. On August 31, 2010, the ALJ issued Order No. 12 which required Shanghai Tandem to show cause no later than September 14, 2010, as to why it should not be held in default and judgment rendered against it pursuant to § 210.16.

The ALJ issued an ID on September 22, 2010, finding Shanghai Tandem in default, pursuant to §§ 210.13, 210.16, because Shanghai Tandem did not respond to the complaint and notice of investigation, or to Order No. 12 to show cause. On October 14, 2010, the Commission issued notice of its determination not to review the ALJ’s ID finding Shanghai Tandem in default.

On October 29, 2010, complainant Chrysler filed declarations requesting immediate relief against the defaulting respondents. On November 15, 2010, the Commission determined not to review an ID (Order No. 17) terminating the last remaining respondents, including Boat N RV, on the basis of a consent order.

Section 337(g)(1) (19 U.S.C. § 1337(g)(1)) and Commission Rule 210.16(c) (19 C.F.R. § 210.16(c)) authorize the Commission to order limited relief against a respondent found in default, unless after consideration of the public interest factors, it finds that such relief should not issue. The Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue one or more cease and desist orders that could result in the respondent 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 are either 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).

If 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 include the effect that an exclusion order and/or cease and desist 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 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: 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. Complainant and the investigative attorney are also requested to submit proposed remedial orders for the Commission's consideration. Complainant is requested to state the dates that the patents at issue expire and the HTSUS numbers under which the accused products are imported. The written submissions and proposed remedial orders must be filed no later than close of business on December 6, 2010. Reply submissions must be filed no later than the close of business on December 14, 2010. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. 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 why the Commission should grant such treatment. *See* 19 C.F.R. § 210.6. 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.

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 210.16 and 210.50 of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.16 and 210.50).

By order of the Commission.

/s/
Marilyn R. Abbott
Secretary to the Commission

Issued: November 29, 2010